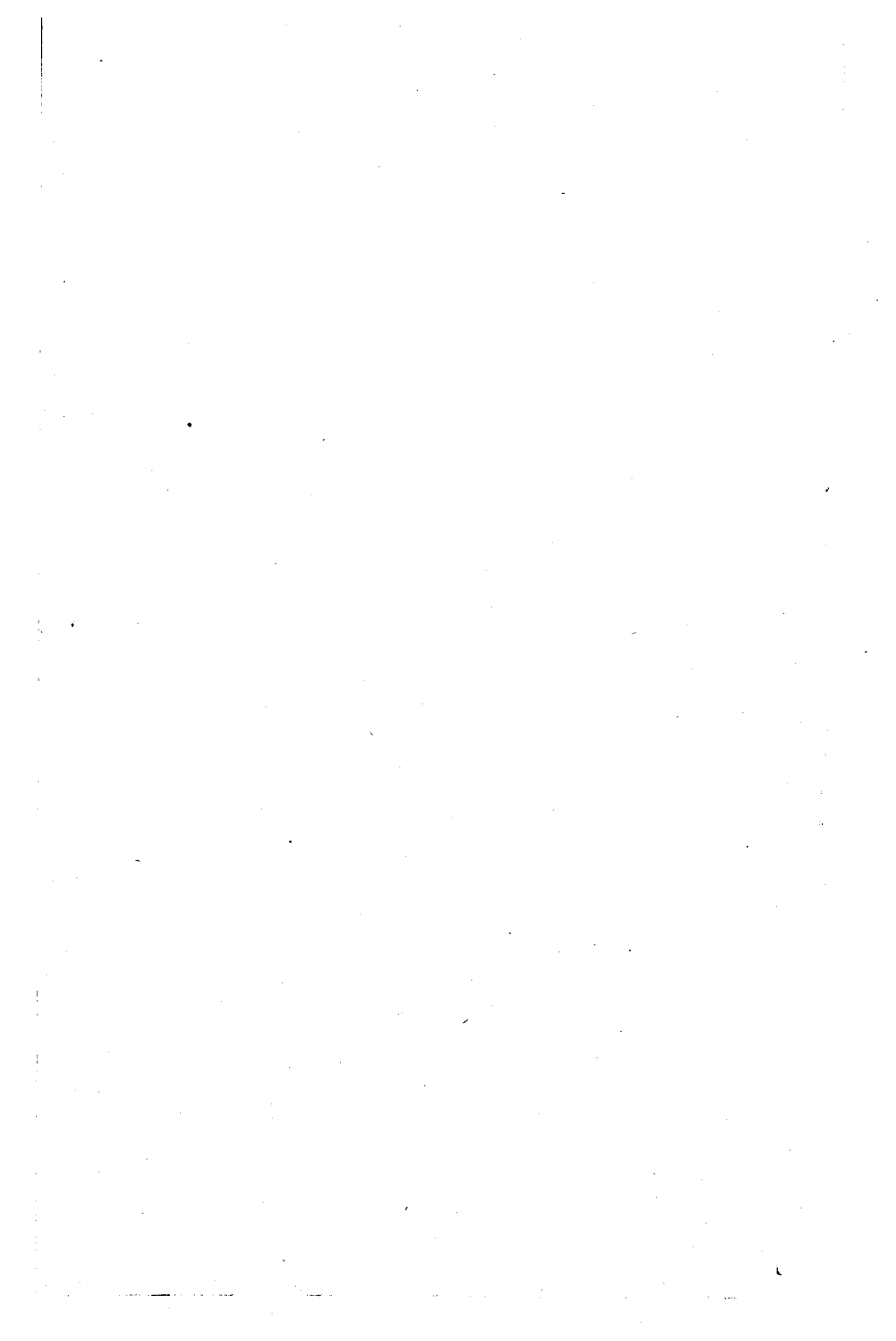


BIENNIAL REPORT
OF THE
ATTORNEY-GENERAL
OF
ALABAMA,
TO
THE GOVERNOR.
1896.

WILLIAM C. FITTS,
ATTORNEY GENERAL.



MONTGOMERY, ALA:
THE ROEMER PRINTING COMPANY, STATE PRINTERS AND BINDERS,
1896.



ATTORNEY GENERAL'S REPORT.

STATE OF ALABAMA,

OFFICE OF THE ATTORNEY-GENERAL,

Montgomery, Ala., October, 1896.

HON. WILLIAM C. OATES,

Governor of Alabama.

DEAR SIR:—In compliance with the statute [Acts 1892-93, p. 852], I herewith submit the biennial report of the Attorney-General for the two years ending September 30th, 1896. The report contains:

First: A tabulated statement showing the number and character of criminal cases disposed of in the entire State for the two years, as consolidated from the reports of solicitors, the number of convictions, acquittals, nolle prosequies and abatements; the number of sentences to death, the number of sentences to the penitentiary, the number of sentences to hard labor for the county, the number of sentences to jail and the number of fines imposed and secured.

Second: Tabulated statements showing the number and character of criminal cases disposed of in each judicial circuit and in each city or criminal court or other court having a separate solicitor, the number of convictions, acquittals, sentences, etc., as in the general statement, so as to show the work of each solicitor separately.

From the general consolidated statement it will be seen that 12,118 criminal cases have been disposed of in the entire State during the two years covered by this report; that of this number there were 6,619 convictions, 2,230 acquittals, 2,644 nolle prosequies, and 625 cases were abated or withdrawn. It will be proper, however, to say just here that hundreds of misdemeanors are disposed of annually in the various counties of the State by hearings before the Judges of Probate sitting as judges of the

county courts, no account of which reaches this office at all, because such trials in the county courts are not reported to this department, the State in such cases being represented by deputy solicitors who are not required to make reports to me.

From the general consolidated statement and from former reports of this office it appears that criminal cases have been disposed of in the State during the several biennial periods of the last ten years as follows: In 1885-86, 11,011 cases; in 1887-88, 8,572 cases (two circuits not reported.) In 1889-90, 12,794 cases. In 1891-92, 12,433 cases, one circuit not reported for each year. In 1893-94, 11,694 cases; and in 1895-96, 12,118 cases as above stated.

Of the 6,619 convictions in the past two years, there were twenty (20) sentences to death, 1,488 sentences to the penitentiary, 2,070 sentences to hard labor for the county, 202 sentences to jail and 2,799 fines imposed and secured. 5 persons escaped after conviction; 2 died, and 11 were sent to the Insane Hospital. 17 fines were remitted by the trial judge, and 5 new trials were granted.

The twenty (20) sentences to death were all for murder in the first degree.

The period is unusual in that it presents no instance in which the death penalty has been exacted for the crime of rape.

It appears that there were 377 cases of homicide disposed of in the State, of this number, there were 56 convictions of murder in the first degree, 97 convictions of murder in the second degree, 47 convictions of manslaughter in the first degree, 27 convictions of manslaughter in the second degree.

Grand larceny seems to have been the predominant crime, there being 1,512 cases of that offense. Of this number 1,001 convictions were secured, 544 defendants sentenced to the penitentiary, 451 to hard labor for the county, 2 to jail, 3 to the Insane Hospital, and in one instance the circuit court granted a new trial.

The kindred crimes of burglary, robbery and larceny (in both degrees) foot up 2,892 cases, with 2,051 convictions, 971 sentences to the penitentiary, and 858 sentences to hard labor for the county, besides jail and fine punishments for the misdemeanor of petit larceny.

There were 1,326 cases of carrying concealed weapons, in 687 of which convictions were secured.

The per cent. of convictions in cases disposed of for the past two years throughout the State is about fifty-five per cent., an increase over the per cent. for the biennial period which immediately preceded the present one.

The per cent. of convictions in the several courts ranges from eighteen to seventy-five, as will be seen by reference to the several tabulated statements which show the records of the solicitors separately.

Out of 12,118 cases disposed of, solicitors have entered nolle prosequies in 2,644. Thus it appears that the time of public officers and the money of the State has been used to set on foot 2,644 prosecutions which had to be abandoned when about to be put to the test. There must of necessity always be a considerable number of nolle prosequies, witnesses disappear or become corrupt after testifying before the Grand Jury, etc., etc., but I hope the number will decrease and that thorough work in the Grand Jury room, and prompt prosecutions after indictment will be found to remedy this matter somewhat.

CRIMINAL BUSINESS IN THE SUPREME COURT.

During the two years covered by this report 263 criminal cases were brought to the Supreme Court for review, or 33 more than during any former like period. Of this number, 158 were affirmed or dismissed, and 105 reversed.

The following comparative statement is submitted to show the gradual and certain increase of this character of business in the Supreme Court:

In 1885-6, 148 appeals, 90 affirmed or dismissed, 58 reversed.

In 1887-8, 117 appeals, 72 affirmed or dismissed, 45 reversed.

In 1889-90, 189 appeals, 110 affirmed or dismissed, 79 reversed.

In 1891-92, 185 appeals, 112 affirmed or dismissed, 75 reversed.

In 1893-94, 230 appeals, 124 affirmed or dismissed, 106 reversed.

In 1895-96, 263 appeals, 158 affirmed or dismissed, 105 reversed.

The proportion of reversals was as follows: In 1885-6, 39 per cent.; in 1887-8, 38 per cent.; in 1889-90, 42 per cent.; in 1891-2, 39 per cent.; in 1893-4, 46 per cent.; and in 1895-93, 40 per cent.

OPINIONS.

During the twenty-two months from December 1st, 1894, to the close of this report on September 30th, 1896, this department has rendered one hundred and sixty-seven written official opinions, divided as follows: To the Governor, 39; to the Auditor, 41; to the Secretary of State, 11; to the State Treasurer, 1; to the Commissioner of Agriculture, 11; to the Board of Convict Inspectors, 7; to the Private Secretary to the Governor, 7; to the Keeper of the Capitol, 1; to the Adjutant General, 4; to the Examiner of Public Accounts, 4; to the Chairman of Judiciary Committee of the Senate, 1; to members of the General Assembly, 3; to Solicitors, 9; to Circuit Judges, 3; to Clerks of Circuit Courts, 2; to the Clerk of the Supreme Court, 1; to Probate Judges, 9; to County Super-

intendents of Education, 2; to the State Chemist, 1; to County Boards of Revenue, 1; to Director of Blountsville Agricultural School, 1; to citizens, 7; to the Trustees of the Alabama Girls Industrial School, 1. This showing speaks for itself.

The vast amount of labor incident to the preparation of so many opinions touching the many and varied subjects constantly called under review can hardly be exaggerated. Nor do these opinions represent all that has been done in the way of advice. Hundreds of verbal opinions have been given, especially to the Auditor in the attempt to aid him in the dispatch of the multitude of matters passing through his hands.

A few of the important opinions on subjects of general interest and likely to prove of permanent usefulness to the State are appended hereto and make a part of this booklet. To set them all out or even all that might be of more than a passing or local nature, would extend these pages beyond the size intended for the report of an officer. The opinion to the Trustees of the Montevallo School was in itself a small book, involving as it did a minute discussion as to the titles of all the various tracts of land donated in and near that locality as an inducement for the location.

Much of my time during the summer of 1895 was consumed in this work.

Before leaving this subject it may be worth while to say that many of the opinions of former Attorneys-General are preserved at the State house, many of them of general interest and importance. There are now enough of this class as rendered by Attorneys-General Tompkins, McClellan, Martin and myself to make, when reported, with head notes and index, a volume of the size and style of the Alabama Reports. If such a volume were prepared and placed in the hands of all State and county officials it would doubtless prove the most valuable reference book which could be furnished for their guidance.

I suggest that the approaching session of the General Assembly make such arrangements as may be proper for the preparation and distribution of such a book.

IMPEACHMENT PROCEEDINGS.

During my incumbency of the office there has been thus far conducted one impeachment proceeding. On the 12th day of April, 1895, the Governor directed me in writing to institute impeachment proceedings against William C. Robinson, Judge of Probate of Lee county. On the 22d day of April, 1895, the information was filed in the office of the Clerk of the Supreme Court. The substantial charge against Judge Robinson, was that of "habitual drunkenness." It would serve no good end to

trace the many orders of the Supreme Court touching this case which were essential to bring it to a final trial upon the merits.

The cause was hotly litigated at every point. The testimony was taken at Opelika by a Commissioner appointed for that purpose by the Court. More than one hundred and fifty witnesses were examined and months were consumed in this tedious part of the preparation.

The case finally came to trial early in December, 1895, when it was argued and submitted. The opinion of the Court acquitting the Respondent was put out early in April of the present year. In arriving at this conclusion of acquittal the Court lays down two propositions which ought not to be permanently engrafted on our system of State government.

(1.) They hold that before the Respondent to an impeachment proceeding can be convicted and removed from office, "it is incumbent on the State to prove his guilt *beyond a reasonable doubt*. The constitution and statutory provisions on the subject, are to receive strict construction."

I believe that this view is illtimed and calculated to destroy the usefulness and practical efficacy of our impeachment laws. An impeachment proceeding is only *quasi* criminal. Furthermore, on other and broader principles the hide-bound rule as of proof beyond reasonable doubt ought not to prevail in such cases.

A high official may be proven guilty to the ordinary satisfaction of any candid mind, and yet remain a menace to good government and the prompt and careful administration of justice because of the mere failure to establish his guilt to the exclusion of every doubt. His public usefulness would be none the less impaired, and the harm of his doubtful and unfaithful example will be intensified by his retention in office and escape from condemnation because of a mere technical rule, which it oftentimes made the scape way of the very guilty.

(2.) The other point is this: Speaking of "*habitual drunkenness*" the Court says: "The dignity of the office of the incumbent proceeded against, makes no difference, and a court will not hold a Chancellor, Judge of the Circuit or City Court, or a Judge of the Probate Court, to a stricter account, than it will a constable, or an officer of the lowest grade, mentioned in the constitution and statute, for any of the impeachable offenses therein specified. These officers from the highest to the lowest are all mentioned together, as being amenable alike for any of the designated offenses."

I submit that this proposition can not be sound and ought not to be adhered to. When the term "*habitual drunkenness*" is applied by the constitution to a constitutional officer as a ground for his impeachment it does and must mean a very different thing from what it means in ordinary police regulations.

Does the statement of the Court that it will not hold a Chancellor or Judge to a stricter account than it will a constable meet with the approval of the thoughtful manhood of the State? The drunkenness which would disgrace a Judge and end his usefulness upon the bench, would in case of a constable go unmentioned, or indeed, afford ground for passing hilarity. They are different, one high, the other low. To one there has been given ten talents of honor; position and public confidence, to the other, one.

The phrase "habitual drunkenness," when it appears in our constitution and statutes, should in each instance be construed with reference to the particular mischief there intended to be remedied by the law makers. "Being one of several causes of impeachment in office it must be interpreted in connection with the other grounds associated with it, which are also made causes of impeachment and removal from office."

I thought that the evidence against Judge Robinson was strong enough to accomplish his impeachment and removal from his office, but when the Court pronounced him innocent that put the matter forever at rest. I do not want to be understood as complaining at the result, but simply as pointing out that two principles were declared which it seems should not become fixed as portions of the frame work of our remedial justice. If necessary, legislative prevention should be resorted to.

In leaving this case, I may however, quote the concluding paragraph of the opinion of the Court as tending to show that the Governor was well warranted in ordering the impeachment, and the Attorney-General not entirely groundless in his argument and insistence for a conviction. The language is; "That he has been guilty of intemperance to a degree discreditable to himself and the office he fills, can not be doubted; but, that he is an habitual drunkard, we are not permitted from the evidence to believe. The constitution and laws of the State do not authorize removal from office for any intemperate indulgence in intoxicants, short of habitual drunkenness."

CIVIL CASES DISPOSED OF BY THE DEPARTMENT.

STATE OF ALABAMA VS. THE POSTAL TELEGRAPH CABLE COMPANY.

When I came into office on December 1st, 1894, this important case was pending in the Supreme Court of the United States, the interests of the State had been ably protected by my predecessor, who had obtained judgment in the Circuit Court of the United States for \$3,846.20.

The case was an important one, involving as it did, the validity of the act of February 28th, 1889, which levies a privilege tax on telegraph companies doing business between points wholly within this State. Shortly

after my induction into office, negotiations were opened by the counsel for the defendant company looking to a settlement of the litigation. Several propositions were declined.

Finally, on the 21st of March, 1895, terms entirely satisfactory to the Governor, Auditor and myself, were reached by which the Postal Telegraph Cable Company paid into the State treasury the sum of \$5,000.00 in settlement of the State's demand and assumed the payment of all the costs in the State and Federal courts.

While all of the credit for skill in the management of this important controversy is due to Attorney-General Martin and Judge Brickell, who was also actively in the case up to the time of his resuming the office of Chief Justice, still the details of the settlement fell upon me and the collection of the net sum of \$5,000.00 was very satisfactory to the State.

ANDREWS, TREASURER OF BARBOUR COUNTY, V. PURIFOY, AUDITOR.

When I took charge of the office there was pending in the Supreme Court (already submitted upon brief of my predecessor) the case of Andrews, Treasurer of Barbour county, against Purifoy, Auditor. This was a mandamus proceeding seeking to compel the Auditor to draw his warrant upon the State Treasurer in favor of Barbour county for an alleged surplus of solicitors fees claimed to be due to that county upon a distribution to the counties of any surplus of such fees over and above the salaries of solicitors, as contemplated by the Act of February 28th, 1887.

It was contended on the part of Barbour county that solicitors fees retained in the treasury in penitentiary cases—a class of cases in which the State pays the costs other than Solicitor's fees under the Act approved February 25th, 1889, were to be included in the estimate, as well as fees which had been actually collected and paid in the State Treasury, while the Auditor contended that only such fees as had been actually collected and paid into the State Treasury were to be considered in the distribution. The contention was decided in favor of the county of Barbour (Purifoy, Auditor, v. Andrews, Treasurer, 101 Alabama, page 643.)

While the amount claimed in the particular instance litigated was but \$379.88, the case really involved much more to the State. The establishment of the system of distribution contended for by the Auditor would have saved several thousand dollars annually to the State.

GODFREY, SOLICITOR, VS. PURIFOY, AUDITOR.

There was likewise pending in the Supreme Court, when I was inducted into office, the case of L. D. Godfrey, Solicitor of 6th Circuit, against

John Purifoy. Auditor. The case had already been submitted upon brief by Attorney-General Martin. This was a mandamus proceeding instituted by Solicitor Godfrey, seeking to compel the Auditor to draw his warrant upon the Treasurer in favor of Mr. Godfrey for certain commissions alleged to be due to him on fees earned over and above the salary of twenty-four hundred dollars.

The question of statutory construction involved in the case, was whether, under the Act of February 21st, 1893 to fix the pay of Solicitors, the Solicitor was entitled to commissions upon the fees taxed upon convictions, or only upon such fees as were actually collected and paid into the State Treasury.

The Supreme Court decided the contention in favor of the Solicitor; *Holding*, That a Solicitor is entitled to the commissions when he prosecutes a defense in a criminal case to conviction, and thereby fixes the amount of the fees the State is entitled to receive, and is not required to wait until such fees are collected and paid into the State Treasury. (Purifoy, Auditor, vs. Godfrey, 105 Alabama, page 143.)

H. H. MATTHEWS, CLERK, ETC., VS. R. H. DAWSON, SUPERINTENDENT OF CONVICTS.

This was a mandamus brought by Mr. Matthews, as Clerk of the City Court of Montgomery, seeking to compel the Superintendent of Convicts to approve and request the Auditor's warrant on the Treasurer for the amount of costs in a certain case in which the defendant had been sentenced to be hanged, that sentence being subsequently commuted by the Governor to life imprisonment. The case raised the question, whether the payment of costs in a capital case, the sentence being subsequently commuted as aforesaid, is contemplated by legislative provisions providing for the payment of costs in cases in which the defendant is sentenced to the penitentiary. The case, aside from the amount directly involved, was important as a precedent, because commutations by the Governor will occasionally occur so long as our system of government prevails.

The Judge of the City Court of Montgomery decided the case in favor of the Clerk and against the State. Upon appeal this judgment was reversed by the Supreme Court and the petition for the writ dismissed. (Dawson, Supt., vs. Matthews, Clerk, etc., 105 Alabama, page 485.)

HOADLEY ET ALS. VS. PURIFOY, AUDITOR-

This case commonly called the "Lloyd's case" has attracted attention not only in this but in other states because of the novel mode of insurance

proposed by the societies known as the "Lloyds," seeking admission at the hands of the insurance departments of the several States.

A discussion of the system of insurance proposed by them is furnished in one of the opinions set out in a later page of this report. Acting under said opinion of this department, the State Auditor, when applied to, declined to issue his license and approval to these societies authorizing them to underwrite in this State. With this ruling of the departments the societies were discontent and thereupon sought by the writ of mandamus filed in the City Court of Montgomery to compel the Auditor to recognize them as insurance companies and grant them the license to transact business mentioned in the Code. I demurred to the petition for mandamus exhibited against the Auditor, and upon the hearing of the cause in the City Court of Montgomery the Judge of that court sustained the demurrers and dismissed the petition, from which ruling the petitioners prosecuted an appeal to the Supreme Court.

The case was argued both orally and by brief in the Supreme Court and the ruling of the trial court in dismissing the petition and refusing to award a mandamus to the Auditor was affirmed. (*Hoadley et als vs. Purifoy, Auditor*, 18 So. Reporter, page 220.)

M. H. SULLIVAN ET AL. VS. THE STATE OF ALABAMA.

This case involved an important feature of the present revenue law of the State—Acts 1894-95, p. 1192. The County Board of Equalization of Baldwin county raised the valuation of certain property owned by Sullivan and others above the figure at which they had assessed it for the purposes of taxation. Sullivan and associates appealed from the ruling of the board to the Circuit Court, and the trial there resulted in a victory for the State. Whereupon a further appeal was prosecuted to the Supreme Court and that court reversed the ruling of the Circuit Court, holding—that under Acts 1894-95, pp. 1192 to 1206, section 33, authorizing appeals from the decision of the board of equalization increasing an assessment, and providing that the same shall be tried anew, the burden is on the State to show the correctness of the decision appealed from.

This ruling of the Supreme Court is not satisfactory, and will prove harmful in the administration of the revenue law.

It was contended by the State that the judgment of the Board of Equalization ordering an increase of valuation carried with it a presumption of correctness, and cast upon the tax payer appealing therefrom the onus of showing that it was incorrect or exorbitant.

The Supreme Court reverses this proposition and puts upon the State the burden of showing the correctness of the valuation as fixed by the

county board of equalization. (Sullivan et al. vs. The State, 20 So. Reporter, p. 452.)

CASES GROWING OUT OF THE DEFALCATION OF F. C. RANDOLPH, JUDGE OF PROBATE OF MONTGOMERY COUNTY.

About the middle of March 1895 Judge Randolph defaulted, and on the 13th of April 1895 the report of the Examiner of Public Accounts showing the details of that matter was filed in the office of the Governor. On July 2nd 1895 the Governor transmitted that report to the Auditor with instructions "to have the Attorney-General to bring suit against the bondsmen of Judge Randolph and all other parties liable to the State for licenses, &c. as disclosed by the written report." The report itself together with these instructions were communicated to me by the Auditor during the month of July 1895 and I immediately addressed myself to the task which confronted me.

Necessarily, the first work was to carefully analyze the report of the examiner of Public Accounts and thereby ascertain exactly when each item was wrongfully retained, to which term of office it related and against which official bond it was properly chargeable. When it is remembered that the shortage was made up of hundreds of items, distributed through three terms of office extending from 1880 to 1895, the magnitude of the work as well as the exacting attention to details essential to its proper solution can well be appreciated. Constant study of the facts set forth demonstrated that of the total shortage the sum of \$145.80 properly related to the first official term from 1880 to 1886, and that the sureties upon the bond for that term were liable therefor. The bondsmen for that term were John L. Cobbs, W. D. Brown and C. L. Mathews. The fact of this liability was communicated to these sureties by letter addressed to Mr. John L. Cobbs, and on the 21st day of August they came forward and settled the same delivering to me the said sum of \$145.80 which was turned into the State Treasury on that day.

I found upon examination that for the second official term from 1886 to 1892 two bonds had been given, the first signed by W. D. Brown and C. T. Pollard and when that had been pronounced insufficient a second bond had been executed, F. M. Billing and T. J. Williams becoming the sureties thereon. The shortage which accrued during this second term of office amounted to about \$2,900.00. I brought suit separately against each bond for the entire amount of that shortage, the idea being to allow the court to determine the particular portion which should fall against each and to do nothing on my part which would in any manner release either set of sureties. These suits were begun in the Circuit Court of

Montgomery county on the 1st day of August 1895. On November 30th 1895 judgment was obtained in said Court against W. D. Brown and C. T. Pollard for the sum of \$1,405.73. On the same day W. D. Brown handed me his cheque for \$1,405.73 in satisfaction of the judgment; which cheque was immediately delivered to the State Treasurer.

On November 30th 1895 judgment was also recovered against F. M. Billing for the sum of \$1,500.00. The other surity on that bond T. J. Williams having died before the filing of the summons and complaint.

On the 3rd day of December 1895 F. M. Billing appeared before the State board of compromise and asked for a reduction of the amount which had been recovered against him. He presented several equitable grounds for a reduction and insisted upon them very earnestly. After full consideration of the case made by him the board decided to allow him a reduction of only \$100. This ruling of the board was certified to the State Treasurer and Mr. Billing immediately paid that officer \$1,400.00 in full settlement of the judgment which had been recovered against him.

By far the heaviest shortage in this connection occurred in Judge Randolph's third term of office, the one he was serving when he left.

According to calculations made from the facts before me the shortage as against that bond was about \$21,000.00.

The surities for the said term were Oliver C. Ruston, G. W. Craik and C. G. Abercrombie. On the 1st day of August 1895 suit was filed against said surities in the Circuit Court of Montgomery County. The County of Montgomery had suffered considerable loss of funds and was suing upon the same bond and it was manifest that the bond was insufficient to protect both the State and the County; the result of this condition of affairs was a race of diligence between the Attorney General of the State on the one hand and the attorneys for Montgomery County upon the other.

The State won by just one week. On November 30th 1895 the State obtained judgment against Oliver C. Ruston, G. W. Craik and C. G. Abercrombie for the sum of \$21,290.03. On December 2nd 1895 I had a proper certificate of this judgment filed and recorded in the Probate office of Montgomery County where it now stands as a lien against all the property of said bondsmen. Execution upon said judgment is in the hands of the sheriff of Montgomery County, and a levy has been made. One proposition for the settlement of the judgment has been submitted to the State board of compromise and declined by that body because the amount offered was not sufficient.

In addition to these principal cases the Randolph matter gave rise to other litigation *viz* suits brought by the State to recover license moneys which he as Judge of Probate should have collected and which because of neglect or misconduct on his part went uncollected. Several of these cases have been settled, in others judgments have been obtained and the bal-

ance of them are still pending in Court awaiting the ruling of the Supreme Court upon demurers which were interposed by the defendant Fleming in the suit brought against him.

PROCEEDINGS FOR THE FORFEITURE OF THE CHARTER OF THE SELMA & GULF
RAILROAD.

On July 3rd 1895 the Governor of the State acting under the direction of the Legislature to him contained in the act approved February 21st 1893 (Acts 1892-93 page 697) instructed me in writing to institute a proceeding against the Selma & Gulf Railroad Co., incorporated June 20th 1858, and the Pensacola & Selma Division of the Louisville & Nashville Railroad, which operates the completed portions of the said Selma & Gulf Railroad Co. and has an interest therein, requiring said companies to show cause why the rights, privileges and franchises granted in the original act of incorporation of said railroad shall not be forfeited for failure to comply with the terms of said charter."

Before this business could be intelligently dispatched a long and careful investigation of various legislative enactments, and certain judicial proceedings was necessary. In the course of this research I was constrained to report back to the Governor certain facts and obstacles which presented themselves and to point out the probable futility of the proceeding, even when conducted to a conclusion.

That report is set out at the conclusion of this book and in case further legislation on this subject is discussed, the facts therein contained will be found useful to the members of the general assembly.

While the Governor did not dissent from my views he very properly thought it best to obey the letter of the act which instructed him to have the proceedings inaugurated. Consequently on the 22nd of February 1896 I instituted a *quo warranto* proceeding in the Circuit Court of Montgomery County and prosecuted the same to effect obtaining on May 29th 1896 a final judgment in favor of the State and an order of forfeiture against the corporate charter and franchise rights as prayed for.

Although the matter has been conducted to the apparently satisfactory conclusion indicated above, I do not believe that the Louisville & Nashville Railroad Co. can be prevented and excluded from operating the finished segments of the railroad which they have purchased.

BINGHAM BOND CASE BEFORE THE GOVERNOR AS DEBT-COMMISSIONER.

During 1895 the contention of the heirs of Arthur Bingham deceased for the funding of certain State bonds found among the effects of the de-

ceased culminated in a hearing before the Governor as "Debt-Commissioner." I represented the interests of the State as best I could, contending against the recognition of the bonds presented. The claimants were however in possession of the original bonds, and in addition to the *prima facie* case made by their presentation offered other evidence tending to show that their ancestor came into possession of them rightfully.

The records in the offices of both the Auditor and Treasurer were but poorly kept during the reconstruction period, and while suspicion had long attached to these bonds nothing of a tangible nature tending to show fraud in their issue could be brought to light. After a full hearing of the evidence together with arguments pro and con, the Governor as Debt Commissioner granted the petition and allowed the exchange of the bonds.

THE MEMPHIS & CHARLESTON RAILROAD CO. VS. WM. C. OATES, AS GOVERNOR,
AND WM. C. FITTS, AS ATTORNEY-GENERAL.

I shall not give any extended account of this most abominable suit. It is another instance of the undemocratic disposition of Federal Courts to interfere with the internal affairs of the States.

A striking instance of the attempt of United States officials to run the government of the State of Alabama by means of writs of injunction directed against the highest State officials.

If this government is ever overturned, if our system of civil liberty must prove a failure, it will certainly be on account of the gradual, steady and unwarranted assumption by the Federal Courts of power and authority nowhere granted to them by the constitution, and never contemplated by the builders of the republic.

The last session of the General Assembly passed an act reducing the tolls on the wagon bridge over the Tennessee river at Florence, owned by the Memphis & Charleston Railroad.

The receivers of the Memphis & Charleston Railroad thereupon filed their bill in the Federal Court at Huntsville against Wm. C. Oates as Governor of Alabama, and Wm. C. Fitts as Attorney-General of Alabama; seeking an injunction against them in their official capacities to restrain them from putting the said act into effect.

As a matter of fact, the act required nothing on the part of the Governor and Attorney-General to put it into operation. It was and is self-executing, giving every person of whom the illegal toll is collected the right to recover a penalty of \$20.00 against the Railroad Company for each infraction of the law reducing the scale. The proposition of the Railroad, however, to which the Federal Court seems to give assent, is that an injunction against the Governor and Attorney-General is operative as an injunction against all the people of the State.

Of course it is too plain for argument that the suit is in reality against the State of Alabama, in direct violation of the prohibition of the constitution of the United States.

This point has been made and insisted upon in argument and upon brief.

I first filed a motion to dismiss the bill because it was in fact a suit against the State, and have subsequently followed the same up with demurrers. These points were argued in Montgomery and a brief submitted in connection therewith. Subsequently, I have been obliged to make a trip to Huntsville in connection with the conduct of the State's defense. The bill and the injunctions issued thereon have been retained and the Governor and Attorney-General put to an answer. This case has been the most troublesome matter connected with the law department of the State during the two years last past.

(1.) Because it is not a matter of *general* importance to the people of the entire State and is a palpable attempt to sue the State indirectly by the use of the names of two State officers as defendants, touching a matter with which they are in no way concerned.

(2.) Because of the strange obtuseness of the Federal Court which declines to see that a suit against the Governor and Attorney-General (about a matter with which they have no earthly personal connection) being sued, as the record discloses, merely because of their public positions, is indirectly, but to all intents and purposes, a suit against the State.

(3.) Because the corporation whose tolls were reduced has shown a disposition defiant and obstinate in refusing to submit to legislative control within reasonable and just limits and thereby brings about a most annoying state of affairs.

The Governor has recently associated with me in the case local counsel at Florence, *viz.*: Messrs O'Neal & Wood. This course was necessary because so exacting are the details of practice in the Federal Courts and so voluminous with orders and writs of injunction is this matter becoming that its demands upon the time of the Attorney-General were seriously interfering with the dispatch of public business at the capitol.

My study of the case and of the various legislative enactments connected with the Memphis & Charleston Railroad (which enactments extend through fifty years of legislation) inclines me to the opinion that the railroad company has no right at all to operate a toll bridge across the Tennessee river, and that it is engaged in an *ultra vires* business in so doing. If I am right in this position (of which I feel reasonably sure), then the attention of the legislature is respectfully invited to the subject; and the recommendation is here made, that proper enactments be passed looking to the institution of proceedings to restrain

the company from further unwarranted conduct of the toll bridge business, or indeed to a forfeiture of the charter of the railroad if the facts are found to warrant that. I am ready to co-operate fully with any committee which may be appointed on this subject, and will put all the facts and papers before them.

The railroad has put itself outside of the realm of any polite consideration at the hands of the State or the legislative department of the State, and a thorough investigation as to the scope of its charter powers and a firm determination to confine its operations within those powers, would be entirely proper and becoming on the part of the State.

THE STATE VS. JOSEPHUS JOWERS ET ALS.

In the fall of 1895 a band of masked white men visited the house of a negro in Elmore county at night, took him from his bed, shot him to death in front of his own door, carried his body into the public road where it was left.

The murder was incited by no criminal or improper conduct on the part of the deceased. When these facts became known, the Governor offered a reward for the apprehension of the guilty parties and evidence leading to a conviction. Upon consultation between the Governor and the Attorney-General, it was determined to spare no effort to secure the enforcement of the law in this case, hoping that it might be made the means of demonstrating that the law could be enforced in such cases and thereby restrain other lawless persons from like transgressions.

In due time the untiring efforts of the authorities and certain interested citizens of Elmore county were rewarded and several arrests were made. Three very young members of the band confessed, making statements which implicated others, among them Josephus Jowers and John Edwards. Everything as it developed pointed to Jowers as the captain of the clan, with Edwards as a ready second. It was evident from the blood curdling details which were finally brought to light that Jowers had deliberately set out to organize and keep up a band of regulators to stand above the law and inflict punishment and death upon negroes as fancy dictated.

Upon consultation with the Circuit Solicitor, it was determined to take light sentences as against the younger members of the band who had confessed, but to urge convictions of murder as against the leaders.

The case came to trial at a regular term of the Circuit Court of Elmore county, and was ably prosecuted by the Solicitor and his deputy, but despite the fact that the evidence of guilt was clear, and the murder unprovoked, yet a diseased public sentiment was sufficient to operate a mistrial.

The Circuit Judge ordered a special term of the court and set the case down for another trial.

The Circuit Solicitor visited me and urged that I attend the next trial and engage in the prosecution; finally saying that he believed the moral effect of the actual presence of the Attorney-General would awaken public sentiment to the fact that the "white-capping" of a negro was a crime, while nothing else would.

Yielding to these solicitations I went actively into the prosecution, attending the trial at Wetumpka, which consumed almost a week. The result of this trial was the conviction of both Jowers and Edwards of murder in the second degree, each being sentenced to the penitentiary for ten years. This conviction has had and will continue to have a wholesome effect. I believe that the mad fever for "white capping," which has had possession of the lawless element of the State for about three or four years, is gradually subsiding. It can only be kept down, however, by a vigorous enforcement of the law.

SUGGESTIONS.

In obedience to the statute which requires the Attorney-General to make suggestions touching changes in the criminal laws, I beg to submit the following, in addition to the suggestions hereinbefore set forth :

(1) That the statute with respect to venire for petit juries be amended so as to save and prevent such venires from attack on any ground whatsoever, excepting only fraud in the drawing or preparation of the same.

(2) That all the local prohibition laws in the State be repealed and in lieu of these hundreds of local acts, oftentimes confusing and conflicting, one general prohibition law be enacted for the entire State, to be operative alike everywhere, except in towns and cities enjoying police surveillance where high license may be more acceptable.

(3) That an act be passed to properly define and punish acts of lawlessness popularly known as "white-capping."

(4) That the punishment for burglary of dwelling houses be so changed as that the minimum punishment therefor will be five years in lieu of one. In my judgment this crime should be punished by death or imprisonment in the penitentiary for not less than five years, in the discretion of the jury.

(5) That the statute touching impeachment proceedings, conducted by the Attorney-General, be so amended as to provide for the compensation of witnesses attending before the Supreme Court, or the Commissioner appointed to act for the court, and that the witnesses for the prosecution be paid out of the State Treasury, on proper certificate of the Clerk or Commissioner, countersigned by the Attorney General; and that the witness fees be taxed up in the bill of costs and included in the execution

against the defendant when he is taxed with the costs, and when collected to be paid by the Clerk of the Supreme Court into the State Treasury.

(6) That a statute be enacted requiring the Supreme Court to affirm all criminal cases appealed thereto when it is apparent from a minute examination of the record that *substantial justice* has been done. It may be safely asserted that one-half the reversals of criminal cases now obtained in the Supreme Court spring purely and only from technical questions which do not in any way go to the fairness of the trial or the righteousness of the conviction. I can not do better than quote here the language submitted in this connection by Attorney General Martin in the last report prepared by him :

"The doctrine of error without injury, which prevails in the decision of civil causes, is not applied in criminal cases. In many instances the trial court has sat for days listening to the detail of testimony against a defendant charged with an atrocious crime, a crime it may be that shocked the community to an extent to make it necessary for officers of the law to appeal to the law abiding sentiment of citizens to let the law take its course, or to resort to force in order to protect the accused from mob violence ; the evidence has established guilt beyond all reasonable doubt, the court has fully and fairly charged the law of the case, a jury of twelve men have performed their duty, and no element of a fair and impartial trial is wanting ; yet the admission of a scintilla of irrelevant evidence, or the refusal of the court to give every special charge requested by the defendant and asserting a correct legal proposition—although covered by the general charge—or the failure of the prosecution to stipulate in a special charge the degree of proof required in criminal cases—although the court has already charged the doctrine of reasonable doubt in its phases—is, upon appeal to the Supreme court, fatal to the conviction and sentence. Under the rule which now fetters that tribunal the case must be reversed and remanded for another trial ; and the same proceeding may be gone over and over again, until finally the prosecution is worn out and the ends of justice are defeated. Such a rule ought, in my judgment to be abolished ; it has no rightful place in a system of jurisprudence designed for the punishment and suppression of crime. The remedy lies with the legislature."

(7.) That an act be passed providing for the abridgement of criminal records on appeal to the Supreme Court. As the law now stands the organization of the Court and Grand Jury for the term at which the indictment was presented, and the organization of the Court and petit juries for the term at which the trial is had must all be set out in extenso in the record, and this too without regard to whether any point was made or is reserved against the regularity of these proceedings. My suggestion is that when no point is raised against any of these formal proceedings that

they be omitted from the record, such omission to be taken as proof positive that said formalities were regularly conducted. Whenever any point is reserved going to the regularity of the organization of the Grand Jury or trial term, then let the judge upon the circuit order these proceedings set out for inspection by the Supreme Court. Under the present system each criminal transcript is loaded down with many pages of formal matter which has to be waded through by the Attorney-General and the Judges of the Supreme Court before they can come to the real point at issue. It is seldom that any attack is made on these introductory proceedings and in cases where such attack is made it would be very easy to order them set out in full.

(8.) That all laws punishing vagrancy be repealed and abolished. In the practical experience of life it will be observed that all prosecutions for vagrancy are heartless. The alleged vagrant is generally merely guilty of the atrocious crime of being very poor. If there has been any overt crime committed it is easily reached under our laws which now provide punishment for all such infractions.

(9.) That the offense of carrying concealed pistols be made a felony. So long as the payment of a fine is the only punishment imposed, men will continue to carry deadly weapons, and homicides will not decrease in number.

(10.) It must have occurred to all thoughtful persons that there is lacking to the State an institution which an advanced civilization and a generous sense of justice to the unfortunate both demand.

The State should have a reformatory for the proper enlightenment and training of young convicts and such other unfortunate offenders as hardly deserve the severe punishment and lasting humiliation incident to a term in the penitentiary. The mistake into which many people fall is that of looking upon all convicts alike. We hear it said "he is a convict", that means "out-cast", one "forever branded", "a criminal" beyond the hope of rescue. Such ought not to be the case. Convicts are as different and distinct the one from the other as the men and women we meet in every day life. Some are truthful and possessed of character, while others, (and the majority no doubt) are hardened and entirely given over to evil. The error of public opinion in just hurling all these human beings into one great ostracised class under the head of "convicts" is responsible for the condition of affairs I am attempting to point out.

My experience in the administration of criminal law (both defending and prosecuting) convinces me that many heedless offenses against the letter of the law, often transgressions springing from hot blood and the innate instinct of man to do battle, are committed by men who are not at all entitled to rank as fixed criminals. I am forced to say that public

opinion and our convict system do not allow the separation or draw the distinction for which I am contending.

I respectfully suggest that the Legislature inaugurate this much needed reform. Necessarily the beginning will be humble, but if the change is good the institution will grow. The State should have a reformatory for the young convicts. The principal feature of this reformatory ought to be separation from evil associations. I am not suggesting little work for the young offender, but I am suggesting that he be allowed to perform the service the State has put upon his back, away from all evil companions and corrupting influences. The State does not want to destroy, but to build up. Punishment is laid upon the offender for the dual purposes (1) of reforming him and retarding him from further transgressions, (2) that the example of his conviction and punishment may restrain others. I submit that under the present system the first great essential is virtually cast away.

CONCLUSION.

The period which this report brings to a close, while laborious in the extreme, has been a pleasant one. The outgoing Attorney-General, Hon. W. L. Martin, was considerate and obliging in a marked degree, aiding by every means in his power to give me the details of every matter which came from his hands into mine. The Supreme Court and State officers have been thoughtful and whenever this department has been compelled to ask for a little time in the investigation of serious questions submitted for opinions, their demeanor has been marked with kind patience. Too much cannot be said of the unbroken confidence which has existed between the retiring Governor and this office, and because of it, many matters of policy incident to litigation with which the State has been connected have been dispatched without resort to formal written opinions; and the same is true with regard to the retiring Auditor.

The department aside from handling the hundreds of cases appealed to the Supreme Court and the multitude of matters which have demanded attention, has by collections actually made (not including uncollected judgments obtained) more than saved to the State every cent of expense which this department entails upon the people of the State.

The work in the Attorney-General's office has more than doubled in the last decade, and the number of papers and reference books requisite to be kept in ready reach is constantly increasing.

The present quarters occupied by the Attorney-General are entirely insufficient to accomodate him and the effects actually incident to the discharge of his duties. I understand that this condition of affairs is so

well recognized by all persons cognizant of present conditions that a proposition is now on foot looking to the division of one of the large rooms on the first floor of the capitol and there erecting an apartment for the Attorney-General. The present location, small and cramped as it is, is convenient to the Supreme Court and the library, and no good end would be accomplished by a removal unless thereby *good, permanent, ample and quiet quarters* could be obtained, equipped with the bookcases and filing receptacles which are now so much needed.

The servants employed at the State House, so far as may be judged from their inattention to the wants and requests of this office, are entirely worthless. The clerk in the office has often been obliged to perform services menial in character, and properly belonging to the sphere of the servants, which, on account of indifference and inefficiency on their part, would have gone altogether neglected but for his attention to them.

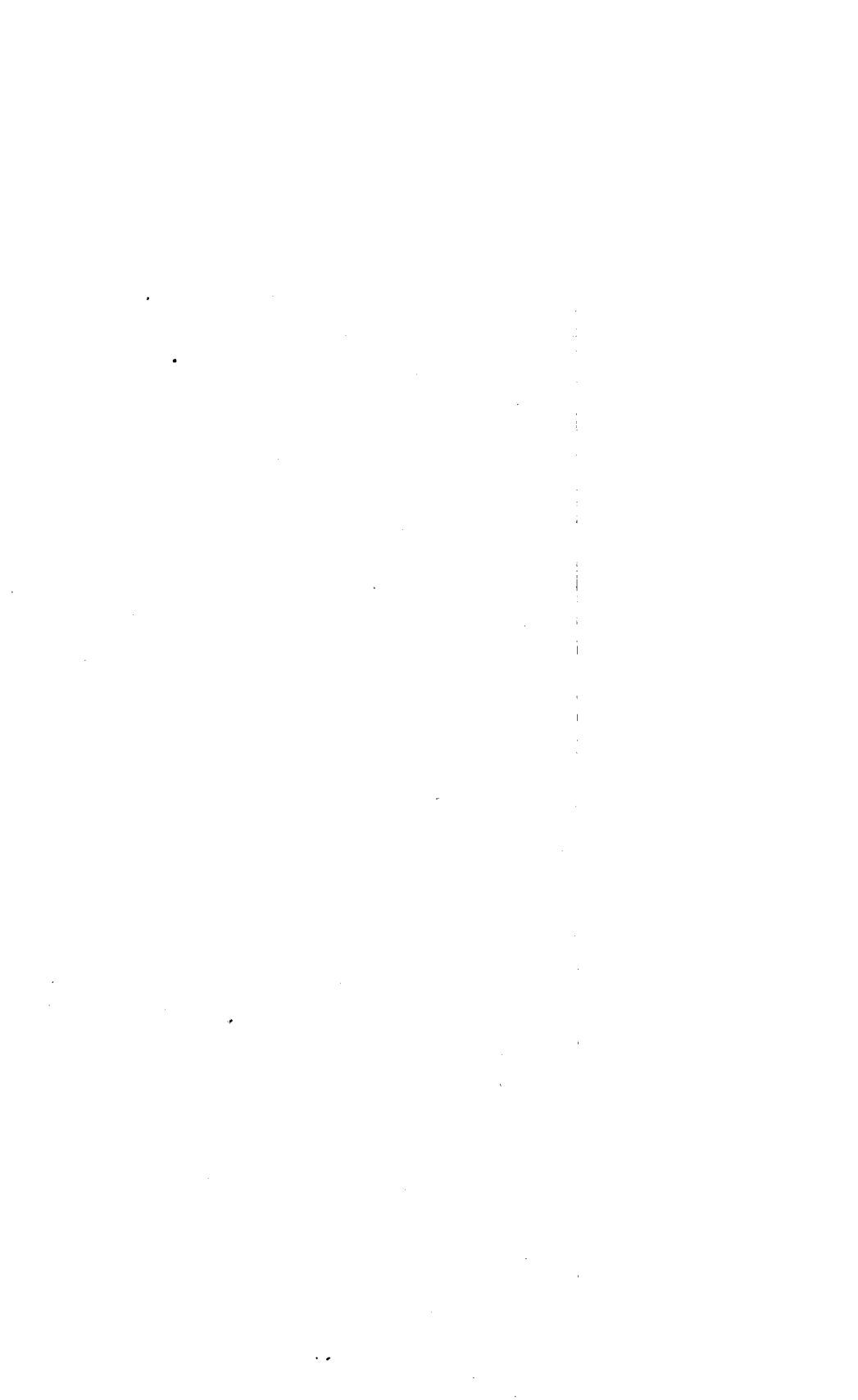
Very respectfully submitted,

WILLIAM C. FITTS,

Attorney-General.

GENERAL STATEMENT,

SHOWING CHARACTER AND RESULTS OF PROSECUTIONS IN THE ENTIRE
STATE FOR TWO YEARS ENDING SEPTEMBER 30TH, 1896.



CHARACTER OF OFFENSE.	No. of cases disposed of.	Convictions.	Acquittals.	Nolle Prosequies.	Abated or withdrawn.	Number of Sentences to				Fines paid or Secured.	Escaped.	Died.	Insane Hospital.	Fines Remitted.	New trial.
						Death.	Penitentiary.	Hard Labor.	Jail.						
Abandoning family.....	3	1	1	1				1							
Abduction and kidnapping.....	3			2	1										
Abusive, obscene, insulting language.....	851	432	185	199	35			93	28	308	1		1	1	
Adultery and fornication.....	185	71	37	65	12		6	26	1	37				1	
Affray.....	34	47	8	9				6		41					
Aiding prisoner to escape.....	18	10	2	4	2			6	3	1					
Altering mark or brand.....	5	1		4			1								
Appearing as attorney when not employed.....	1		1												
Arson, 1st degree.....	12	7	4	1			7								
Arson, 2d degree.....	50	18	17	15			14	4							
Arson, 3d degree.....	19	6	8	3	2		2	2	1	1					
Arson of insured goods.....	1			1											
Assault.....	97	61	19	23				20	1	39		1			
Assault and battery.....	850	552	138	134	26			132	68	351				1	
Assault with intent to murder.....	315	164	60	64	27			132	29	2			1		
Assault with intent to ravish.....	47	25	13	7	2			23	2						
Assault with intent to rob.....	4	3	1					3							
Assault & battery with weapon.....	831	461	191	127	32			178	12	289	1		1		
Attempt at arson.....	4	3		1			1			2					
Attempt at bestiality.....	2	2						1		1					
Attempt at burglary.....	17	15		2			2	9	1	3					
Attempt at felony.....	5	4	1					2		2					
Attempt at forgery.....	1	1								1					
Attempt at seduction.....	1	1						1							
Attempt to commit perjury.....	1	1								1					
Attempt to murder by poison.....	1	1					1								
Bastardy.....	25	13	5	5	2			3		10					
Bawdy-house keeping.....	20	12	4	2	2			3		9					
Bestiality.....	4	1	1	2			1								
Bigamy.....	18	7	2	8	1		4	3							
Breaking fence.....	12	4	5	2	1					4					
Bribery.....	14	2	5	6	1					2					
Bringing stolen property into county.....	1	1						1							
Bringing stolen property into state.....	1	1													
Burglary.....	625	476	65	70	14		1	329	146				1		
Burglary and grand larceny.....	181	141	15	16	9			58	82				1		
Buying stolen property.....	4	1	3							1					
Camp hunting.....	2	2								2					
Card playing on Sunday.....	65	48	4	11	2					48					
Carnal knowledge of female child.....	6	3	3				3								
Changing public road.....	1		1												
Chicken eating hog at large.....	1		1												
Compound felony.....	2		1	1											
Concealing stolen property.....	5	2		3						2					
Concealed weapons.....	1326	687	305	267	67			277	21	388	1				
Conspiracy.....	9	3	4	2				1		2					
Contempt.....	1	1								1					
Crime against nature.....	6	6						5	1						
Cruelty to animals.....	32	20	8	3	1				5	15					
Decoying child under 12 years.....	3		1	1	1										

Showing Character and Results of Prosecutions in the Entire State for two years ending
September 30th, 1896.

CHARACTERS OF OFFENSE.	No. of cases disposed of.	Convictions.	Acquittals.	Nolle Prosequies.	Abated or withdrawn.	Number of Sentences to				Fines paid or Secured.	Escaped.	Died.	Insane Hospital.	Fines Remitted.	New trial.
						Death.	Penitentiary.	Hard Labor.	Jail.						
Defacing property.....	6	1		4	1				1						
Defamation.....	91	19	21	40	11			2	2	15					
Disclosing testimony before grand jury.....	2	1		1					1						
Destroying fence.....	1			1											
Destroying railroad bridge...	2			2											
Disposing of liquor near place of worship.....	1			1											
Disposing of mortgaged property.....	28	3	11	13	1			1		2					
Disposing of property of tenant in common.....	3		2	1											
Distilling.....	1				1										
Disturbing females.....	45	16	9	19	1			6		10					
Disturbing public assembly...	20	5	5	1	9					5					
Disturbing religious worship...	147	64	45	33	5			13		51					
Embezzlement.....	96	18	17	55	6		6	5	1	6					
Employing minor to sell liquor	5	3	2							3					
Endangering life by railroad accident.....	2	2						2							
Engaging in business without license.....	5	3			2					3					
Enticing minor away.....	1	1								1					
Enticing away servant or apprentice.....	1	1								1					
Escape.....	38	28	2	7	1			23	1	4					
Exposure of person.....	3	2	1							2					
Extortion.....	4	1		2	1					1					
Failure of sheriff to discharge duty.....	1			1											
Failure to enter seed cotton bought.....	1			1											
Failure to execute process.....	1				1										
Failure to fix bail by committing magistrate.....	2	1		1						1					
Failure to report births.....	2		1	1											
Failure to testify.....	1			1											
False imprisonment.....	1			1											
False pretenses.....	145	42	28	51	24		9	22	2	9					
Falsifying tax list.....	1			1											
Forfeiture.....	2	2								2					
Forgery, first degree.....	3	3					3								
Forgery, second degree.....	106	60	6	33	7		47	12		1					
Forgery, third degree.....	16	5	3	3	5		1	4							
Gaming.....	650	324	70	223	33			111	2	208				3	
Gaming-house keeping.....	13	1	1	11				1							
Giving liquor to minor.....	3	2	1							2					
Horse-racing on public road.....	2		1	1											
Hunting on lands without permission.....	4	3			1			1		2					
Hunting wild hogs.....	1			1											
Impeachment.....	1			1											
Incest.....	10	4	2	4			3	1							
Inducing witness to leave state.....	2				2										
Influencing voter.....	1			1											

GENERAL STATEMENT—Continued.

Showing Character and Results of Prosecutions in the entire State for two years ending
September 30th, 1896.

CHARACTER OF OFFENSE.	No. of cases disposed of.	Convictions.	Acquittals.	Nolle Proseques.	Abated or withdrawn.	Number of Sentences to				Fines paid or Secured.	Escaped.	Died.	Insane Hospital.	Fines remitted.	New trial.
						Death.	Penitentiary.	Hard Labor.	Jail.						
Injury to building.....	3	3						2		1					
Intimidation.....	11		2	5	4										
Issuing change bills.....	2				2										
Issuing execution without itemized cost bill.....	1			1											
Keeping bowling alley without license.....	2				2										
Keeping ferry without license.....	1			1											
Keeping gaming table.....	7	3	2		2		1		2						
Keeping pool table without license.....	5	3	1	1						3					
Killing fish with explosives.....	5	2		3						2					
Killing stock.....	7	6	1							6					
Larceny, grand.....	1512	1001	252	179	80		544	451	2				3	1	
Larceny, petit.....	527	406	56	55	10		13	179	28	185		1			
Lottery.....	2	1		1				1							
Malicious mischief.....	55	17	21	5	12		2	3	3	9					
Malicious prosecution.....	3	1	1		1			1							
Maltreatment of convict.....	1		1												
Marking hog.....	1		1												
Mayhem.....	3	3					1	1		1					
Manslaughter, first degree.....	53	47	4	2			43	4							
Manslaughter, second degree.....	37	27	9	1			7	15	1	3				1	
Miscegenation.....	5	3	1		1		3								
Murder, first degree.....	94	58	26	8	4	20	35						1		
Murder, second degree.....	193	97	57	30	9		92	3					2		
Negligent escape.....	6	3	2	1				1		2					
Neglect of duty as county commissioner.....	4	3			1					3					
Nightwalking.....	68	35	15	17	1			21		14					
Nuisance.....	17	4	2	2	9					4					
Obscene literature.....	2	1	1							1					
Obstructing public road.....	6	2	1	3						2					
Obstructing railroad.....	8	3	3	1	1		3								
Officer dealing in county claims.....	5	2		3						2					
Peddling without license.....	2	1			1					1					
Perjury.....	72	20	12	30	10		19	1							
Permitting erosion of revenue law.....	1	1								1					
Permitting gaming.....	10	9	1					1	1	7					
Permitting minor to play pool.....	3	3								3					
Permitting stock to run at large.....	2			2											
Poisoning well.....	3	2	1				2								
Possessing counterfeit money.....	1			1											
Posting obscene pictures.....	1	1								1					
Practicing dentistry without licence.....	1	1								1					
Practicing medicine without licence.....	23	16	2	5				1		15					
Presenting gun or pistol.....	68	35	18	12	3			11	2	22					
Preventing peaceable employment.....	1	1						1							

GENERAL STATEMENT—Continued.

Showing Character and Results of Prosecutions in the Entire State for two years ending
September 30th, 1896.

CHARACTERS OF OFFENSE.	No of cases disposed of.	Convictions.	Acquittals.	Nolle Proseques	Abated or withdrawn.	Number of Sentences to				Fines paid or Secured.	Escaped.	Died.	Insane Hospital.	Fines Remitted.	New trial.
						Death.	Peni- tentiary	Hard Labor.	Jail.						
Prostitution	4	2			2				2						
Public drunkenness	143	83	17	41	2			7		76					
Rape	35	11	18	4	2		11								
Railroad cars, throwing or shooting into	8	7		1			4	2		1					
Receiving deposits knowing bank to be in failing condition	47			46	1										
Receiving stolen property	34	19	3	10	2		2	10	3	3					1
Refusing to appear before grand jury	4	4								4					
Refusing to assist officer	1		1												
Registering illegally	1			1											
Removing boat from mooring	4	3			1					3					
Removing corner post	1			1											
Removing mortgag'd property	53	11	11	22	9		2	2		7					
Removal of personal property	1			1											
Renting room for gaming	2	1		1				1							
Resisting officer	29	11	10	7	1			2	2	7					
Resisting process	17	9	3	3	2			9							
Riot and unlawful assembly	18	12	3	3				4	3	5					
Roads, defaulting apporioner	6	4		2						4					
Roads, defaulting overseer	23	11	5	7						11					
Roads, failing to work public	52	12	8	25	7				2	10					
Robbery	47	27	7	11	2		27								
Sabbath, desecration	199	122	31	46				5	2	115					
Seduction	14	2	5	7			1	1							
Selling bread without name of baker on it	56			56											
Selling cartridges without license	2		2												
Selling cigarettes to minor	1	1								1					
Selling firearms to minor	1	1								1					
Selling liquor to inebriate	12	5	3	4				1		4					
Selling liquor to minor	68	21	21	17	9			5	1	15					
Selling liquor on election day	5	3	1	1						3					
Selling liquor without license	409	160	94	133	22		1	21	1	135					2
Selling mortgaged property	61	19	14	24	4		2	3		14					
Selling Oleomargarine	3	3								3					
Selling pool on foreign races	1		1												
Selling seed cotton	2	2					1			1					
Selling unwholesome food	1	1								1					
Sending threatening or abusive letter	2	1	1							1					
Severing property from freehold	1			1											
Sheep-killing dog at large	6	2	3	1						2					
Shooting on public road	18	13	4	1				1		12					
Shooting on Sunday	3	3								3					
Sodomy	4	2	1		1		1	1							
Stock law violations	1	1								1					
Sunrise and sunset law violations	13	9		4				5		4					
Swearing in pres'nce of females	4	4								4					

GENERAL STATEMENT—Continued.

Showing Character and Results of Prosecutions in the entire State for two years ending
September 30th, 1896.

CHARACTER OF OFFENSE.	No. of cases disposed of.	Convictions.	Acquittals.	Nolle Prosequies.	Abated or withdrawn.	Number of Sentences to				Fines paid or Secured.	Escaped.	Died.	Insane Hospital.	Fines remitted.	New trial.
						Death.	Penitentiary.	Hard Labor.	Jail.						
Taking cotton from bale as factor.....	2		2												
Temporarily taking property.....	11	11						6		5					
Temporarily taking animal.....	6	6							2	4					
Trading choking horse.....	1		1												
Trespass.....	49	8	18	22	1				1	6	1				
Trespass after warning.....	101	20	30	34	17			5		15					
Trespass to realty.....	11	6	3	2				1		5					
Unlawful injury to animals.....	65	33	18	13	1			6		27					
Unlawfully destroy'g property.....	1		1												
Unlawfully using personal property.....	1			1											
Vagrancy.....	91	29	18	31	13		3	14		12					
Various offenses.....	9				9										
Violating cigarette law.....	2	1		1						1					
Violating criminal contract.....	22	18	2	1	1			8		10					
Violating election law.....	1	1								1					
Violating garnishment law.....	6	1		3	2					1					
Violating hard labor contract.....	3		1	2						1					
Violating military law.....	1		1												
Violating mining law.....	4				4										
Violating prohibition law.....	41	25	5	10	1			6		19					
Violating revenue law.....	198	80	24	90	4			12	1	56				11	
Violating written contract.....	2	1		1						1					
Voting illegally.....	3			3											
White capping.....	1		1												
Willfully firing woods.....	1			1											
Willful injury to building.....	3		2	1											
Willful injury to property.....	1	1								1					
Wrecking train.....	1		1												
Totals.....	12118	6619	2230	2644	605	20	1488	2070	202	2799	5	2	11	17	5

Percentage of convictions in cases disposed of, 55.

Predominant crime—Grand Larceny.

LIST OF CIRCUIT AND CITY COURT SOLICITORS.

1st Circuit.....	Hon. B. F. Elmore, Demopolis, Alabama.
2nd Circuit.....	Hon. N. Stallworth, Evergreen, Alabama.
3rd Circuit.....	Hon. John V. Smith, Seale, Alabama.
4th Circuit.....	Hon. W. W. Quarles, Selma, Alabama.
5th Circuit.....	Hon. S. L. Brewer, Tuskegee, Alabama.
6th Circuit.....	Hon. L. D. Godfrey, Gainesville, Alabama.
7th Circuit.....	Hon. B. F. Wilson, Talladega, Alabama.
8th Circuit.....	Hon. W. H. Sawtelle, Tuscumbia, Alabama.
9th Circuit.....	Hon. John G. Winston, Jr., Guntersville, Alabama.
10th Circuit.....	Hon. C. W. Ferguson, Birmingham, Alabama.
11th Circuit.....	Hon. A. H. Carmichael, Tuscumbia, Alabama.
12th Circuit.....	Hon. R. H. Parks, Troy, Alabama.
13th Circuit.....	Hon. Stewart Brooks, Mobile, Alabama.

Criminal Court of Jefferson County, Hon. J. H. Little, Birmingham, Alabama,
Hon. Lee C. Bradley, *ad interim*,

City and County Court of Montgomery, Hon. Tennent Lomax, Montgomery Alabama.

City Court of Mobile, Hon. Jas. H. Webb, Mobile, Alabama.

City Court of Anniston, Hon. A. P. Agee, Anniston, Alabama.

City Court of Selma, Hon. W. W. Quarles, Selma, Alabama.

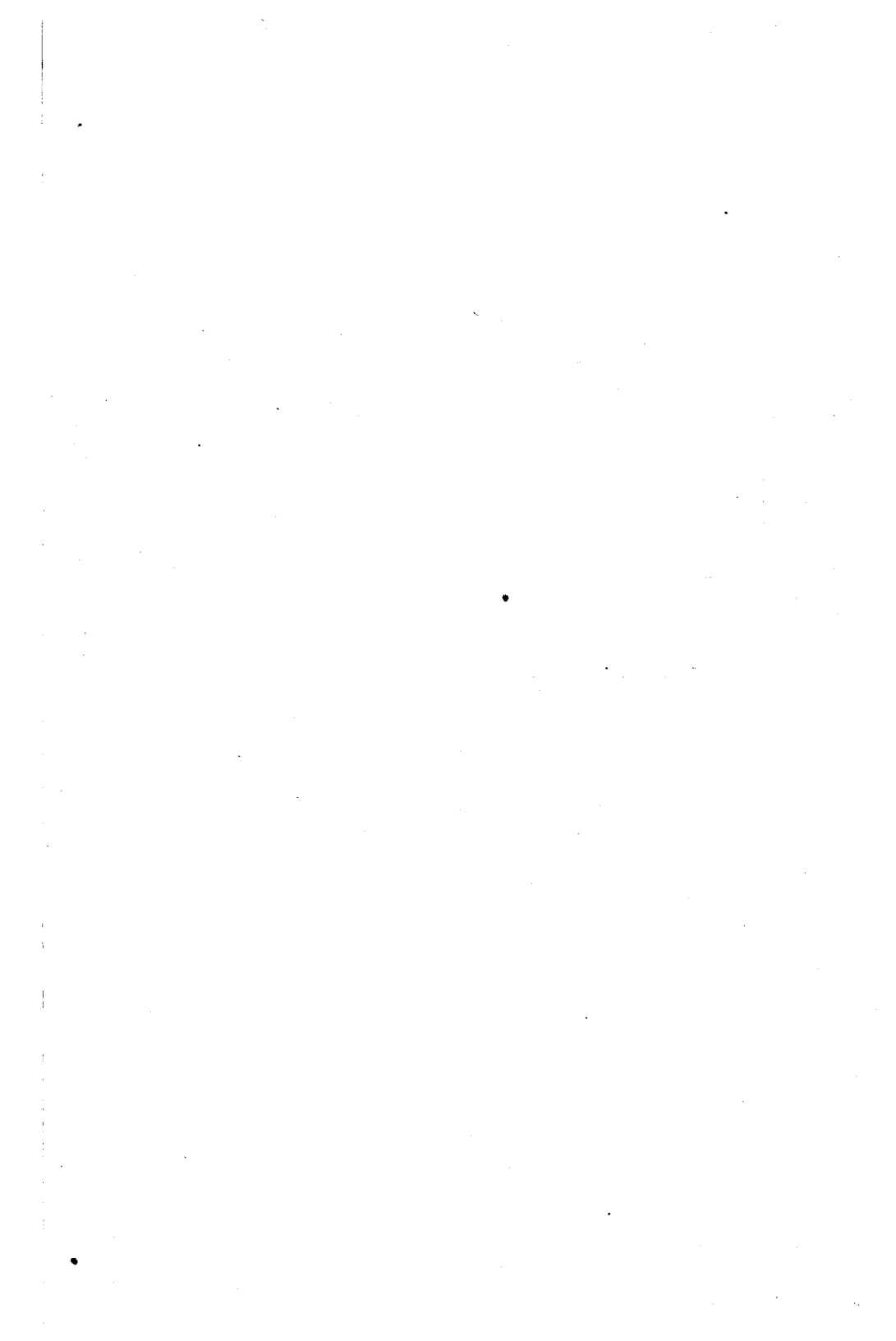
City Court of Gadsden, Hon. Hubert T. Davis, Gadsden, Alabama.

City Court of Talladega, Hon. Alex. M. Garber, Talladega, Alabama.

Criminal Court of Pike County, Hon. W. H. Samford, Troy, Alabama.

County of Madison, Hon. R. H. Lowe, Huntsville, Alabama.

City Court of Bridgeport, Hon. R. C. Hunt, Scottsboro, Alabama.



REPORTS OF SOLICITORS.

FIRST CIRCUIT.

FIRST JUDICIAL CIRCUIT,

Composed of the Counties of Choctaw, Marengo, Clarke and Monroe.
Hon. B. F. Elmore, Solicitor, Demopolis, Ala.

CHARACTERS OF OFFENSE.	No. of cases disposed of.	Convictions	Acquittals.	Nolle proseques.	Abated or withdrawn.	NUMBER OF SENTENCES TO				Fines paid, or secured.
						Death	Penitentiary.	Hard Labor	Jail.	
Abusive, obscene, insulting language	34	24	4	5	1				1	23
Adultery and fornication	13	3	1	9				1		2
Affray	1			1						
Aiding prisoner to escape	5	4		1			4			
Altering mark or brand	1			1						
Appearing as attorney when not employed	1		1							
Arson, 2nd degree	1	1					1			
Arson, 3rd degree	4	2		2				1	1	
Assault	17	13	2	2				6	1	6
Assault and battery	135	91	18	24	2			23		68
Assault with intent to murder	14	6	2	4	2		6			
Assault with intent to ravish	4	2		2			1	1		
Burglary	38	25	6	7			13	12		
Card playing on Sunday	35	28		7						28
Carnal knowledge of female child	2	2					2			
Concealed weapons	106	53	15	36	2			25		28
Cruelty to animals	7	5	1	1						5
Defacing property	2	1		1					1	
Defamation	2	1		1						1
Destroying fence	1			1						
Disposing of mortgaged property	6		2	3	1					
Disturbing religious worship	8	2	3	2	1					2
Embezzlement	1			1						
Enticing away minor	1	1								1
Enticing away servant or apprentice	1	1								1
Escape	1			1						
Failure of sheriff to discharge duty	1			1						
Failure to fix bail by committing magistrate	2	1		1						1
False pretenses	8	5	1	2				1		4
Forgery, second degree	6	2		3	1		2			
Forgery, third degree	4	1		3				1		
Gaming	32	7	2	22	1			1		6
Larceny, grand	96	51	15	26	4		19	32		
Larceny, petit	67	56	4	6	1			10		46
Malicious mischief	1	1								1
Manslaughter, first degree	3	2	1				2			
Manslaughter, second degree	2	1	1					1		
Murder, first degree	5	4	1				4			
Murder, second degree	9	5	3	1			5			
Negligent escape	1	1								1
Neglect of duty as county commissioner	4	3			1					3
Obstructing public road	2			2						
Perjury	5			4	1					
Permitting stock to go at large	2			2						
Presenting gun or pistol	5	4		1				1		3
Profanity in public place	2	2								2
Public drunkenness	6	3		3				1		2
Rape	1		1							
Receiving stolen property	1			1						
Removing boat from mooring	3	2			1					2
Removing corner post	1			1						
Resisting process	7	6		1				6		
Roads, defaulting overseer	3	2		1						2
Roads, failing to work public	5	1		3	1					1
Sabbath, desecration	2	1		1						1
Selling liquor without license	10	4	2	4				2	1	1

FIRST JUDICIAL CIRCUIT—Continued.

CHARACTERS OF OFFENSE.	No. of cases disposed of.	Convictions	Acquittals.	Nolle proseques.	Abated or withdrawn.	NUMBER OF SENTENCES TO				Fines paid or secured.
						Death	Peni- ten- tiary.	Hard Labor	Jail.	
Selling mortgaged property.....	8	2	2	4	...	.....	.....	1	.....	1
Shooting on public road.....	3	1	1	1	.....	.....	.....	.....	.....	1
Shooting on Sunday.....	3	3	.....	.....	.....	.....	.....	.....	.....	3
Temporary use of animal....	3	3	.....	.....	.....	.....	.....	.....	.....	3
Trespass after warning.....	1	1	.....	.....	.....	.....	.....	.....	.....	1
Unlawful injury to animals.....	16	7	3	5	1	.....	.....	1	.....	6
Vagrancy.....	3	3	.....	.....	.....	.....	.....	1	.....	3
Violating hard labor contract.....	2	.....	1	1	.....	.....	.....	.....	.....	.....
Violating prohibitory law.....	9	2	2	5	.....	.....	.....	.....	.....	2
Violating revenue law.....	9	3	.....	6	.....	.....	.....	1	.....	2
Voting illegally.....	1	.....	.....	1	.....	.....	.....	.....	.....	.....
Totals.....	795	455	95	224	21	.....	59	129	5	262

Percentage of convictions in cases disposed of, 57.
Predominant crime, assault and battery.

SECOND JUDICIAL CIRCUIT.

SECOND JUDICIAL CIRCUIT.

Composed of the counties of Crenshaw, Escambia, Conecuh, Lowndes, Butler, and Montgomery—Hon. N. Stallworth, Solicitor, Evergreen, Alabama.

CHARACTER OF OFFENSE.	No. of Cases disposed of.	Convictions.	Acquittals.	Nolle Prosequies.	Abated or withdrawn.	NUMBER OF SENTENCE TO				Fines paid or secured.	New trial.
						Death.	Penitentiary.	Hard Labor.	Jail.		
Abusive, obscene, insulting language.....	37	29	4	3	1			1		28	
Adultery and fornication.....	18	8	8	2			2	1		5	
Aiding prisoner to escape.....	2	2					1	1			
Arson, 1st degree.....	1	1					1				
Arson, 2nd degree.....	6	3	3				3				
Arson, 3rd degree.....	3		2		1						
Assault and battery.....	38	24	9	4	1			1		23	
Assault with intent to murder.....	19	18	1				18				
Assault with intent to ravish.....	2	2					2				
Assault and battery with weapon.....	80	71	7	1	1			17		54	
Attempt at burglary.....	1	1						1			
Bribery.....	3		3								
Burglary.....	80	71	7	1	1		71				
Card playing on Sunday.....	1	1								1	
Carnal knowledge of female child.....	2		2								
Concealed weapons.....	81	53	21	4	3			14	1	38	
Conspiracy.....	2	1	1				1			1	
Crime against nature.....	1	1					1				
Cruelty to animals.....	2	2								2	
Defamation.....	2	2								2	
Disturbing public assembly.....	3	2		1						2	
Disturbing religious worship.....	15	6	7	2						6	
False pretenses.....	10	6	2	2			1	4		1	
Forgery, second degree.....	6	5	1				5				
Gaming.....	24	5	4	12	3			1		4	
Larceny, grand.....	89	76	10	3			74	2			
Larceny, petit.....	32	23	9					9		14	
Malicious mischief.....	4		3		1						
Manslaughter, first degree.....	1	1					1				
Manslaughter, second degree.....	6	5	1				1	4			
Murder, first degree.....	13	9	4				2	7			
Murder, second degree.....	11	10	1				10				
Obstructing railroad.....	1	1					1				
Perjury.....	1			1							
Presenting gun or pistol.....	1	1								1	
Public drunkenness.....	2	2								2	
Rape.....	2	2					2				
Removing mortgaged property.....	2	1			1			1			
Resisting officer.....	1	1						1			
Resisting process.....	2				2						
Roads, failing to work public.....	3		3								
Robbery.....	2	2					2				
Sabbath, desecration.....	5	3	2					1		2	
Selling liquor without license.....	58	26	20	8	4			3		21	2
Selling mortgaged property.....	12	4	2	3	3					4	
Selling unwholesome food.....	1	1								1	
Temporarily taking property.....	2	2						2			
Trespass.....	2	2								2	
Trespass after warning.....	3	2	1							2	
Unlawful injury to animals.....	6	3	3					2		1	
Vagrancy.....	2	1	1					1			
Violating criminal contract.....	1	1								1	
Totals.....	704	493	142	47	22	2	203	67	1	218	2

Percentage of convictions in cases disposed of, 70.

Predominant crime, grand larceny.

THIRD JUDICIAL CIRCUIT.

THIRD JUDICIAL CIRCUIT.

Composed of the counties of Barbour, Bullock, Dale, Lee and Russell. Hon. John V. Smith, Solicitor, Seale, Russell county, Alabama.

CHARACTER OF OFFENSE.	No of cases disposed of.	Convictions.	Acquittals.	Nolle proseques.	Abated or withdrawn.	NUMBER OF SENTENCES TO				Fines paid or secured.
						Death.	Penitentiary.	Hard Labor.	Jail.	
Abusive, obscene and insulting language...	28	22	4	2					2	20
Adultery and fornication.....	5	4		1				1		3
Affray.....	10	9	1					4		5
Altering mark or brand.....	2	1		1			1			
Arson, 1st degree.....	3	2	1				2			
Arson, 2nd degree.....	1		1							
Arson, 3rd degree.....	5	2	2	1			2			
Assault and battery.....	125	105	10	8	2			24		81
Assault with intent to murder.....	17	14	1		2		14			
Assault with intent to ravish.....	7	6		1			6			
Attempt to Bestiality.....	1	1						1		
Attempt at burglary.....	3	2		1				1		1
Attempt at felony.....	1	1						1		
Bastardy.....	5	3	2					2		1
Bestiality.....	1	1					1			
Breaking fence.....	1		1							
Bringing stolen property into State.....	1	1					1			
Burglary.....	75	68	5	2			62	6		
Changing public road.....	1		1							
Concealed weapons.....	119	75	30	10	4			30		45
Cruelty to animals.....	2	1		1						1
Defamation.....	2		1	1						
Disturbing religious worship.....	11	7	2	2				3		4
Embezzlement.....	6			6						
Endangering life by railroad accident.....	2	2						2		
Engaging in business without license.....	2	2								2
False Pretenses.....	12	7	1	3	1		1	6		
Forgery, third degree.....	2	1	1					1		
Gaming.....	18	16	2					5		11
Incest.....	3	1		2			1			
Keeping pool table without license.....	1		1							
Larceny, grand.....	105	82	11	6	6		76	6		
Larceny, petit.....	53	48	3	2				12	2	34
Malicious mischief.....	5	3	2							3
Manslaughter, first degree.....	2	2					2			
Manslaughter, second degree.....	2	2					1			1
Murder, first degree.....	17	12		4	1	5	7			
Murder, second degree.....	11	7	3	1			7			
Obstructing public road.....	2	2								2
Perjury.....	4	1	1	2			1			
Permitting minor to play pool.....	1	1								1
Practicing medicine without license.....	7	7								7
Presenting gun or pistol.....	3	2	1							2
Prostitution.....	2				2					
Rape.....	5	1	3	1			1			
Receiving stolen property.....	5	4	1				2		1	1
Removing mortgaged property.....	2		1	1						
Resisting officer.....	1		1							
Roads, defaulting apportioner.....	2	1		1						1
Roads, failing to work public.....	2	1	1							1
Robbery.....	1			1						
Sabbath, desecration.....	13	9	2	2				1		8
Selling liquor to inebriate.....	4	3		1						3
Selling liquor to minor.....	7	3	2	2				1		2
Selling liquor without license.....	11	6	3	2				2		4
Selling mortgaged property.....	11	5	1	5			2			3
Shooting on public road.....	1	1								1
Stock law violations.....	1	1								1
Sunrise and sunset law violations.....	1	1								1

THIRD JUDICIAL CIRCUIT—Continued.

CHARACTER OF OFFENSE.	No. of cases disposed of.	Convictions.	Acquittals.	Nolle proseques.	Abated or withdrawn.	NUMBER OF SENTENCES TO				Fines paid or secured.
						Death.	Penitentiary.	Hard Labor.	Jail.	
Temporarily taking property	2	2								2
Trespass after warning	6	3	2	1						3
Trespass to realty	1	1						1		
Unlawful injury to animals	4	2	1	1						2
Vagrancy	1	1								1
Violating criminal contract	2	2						1		1
Totals	769	570	106	75	18	5	190	111	5	259

Percentage of convictions in cases disposed of, 74.

Predominant crime, assault and battery.

FOURTH JUDICIAL CIRCUIT.

FOURTH JUDICIAL CIRCUIT.

Composed of the Counties of Bibb, Dallas, Hale, Perry and Wilcox—Hon. W. W. Quarles,
Solicitor, Selma, Ala.

CHARACTER OF OFFENSE.	No. of cases disposed of.	Convictions.	Acquittals.	Nolle Prosequies.	Abated or withdrawn.	NUMBER OF SENTENCES TO				Fines Paid or Secured.	Escaped.
						Death.	Penitentiary.	Hard labor.	Jail.		
Abusive, obscene, insulting language	3	2			1					1	1
Affray	1	1								1	
Arson, second degree	6	4	2				2	2			
Assault and battery	14	13		1				6	1	6	
Assault with intent to murder	14	9	4		1		7	2			
Assault with intent to ravish	3	2	1				2				
Assault and Battery with weapon	29	27		1	1			17		10	
Bastardy	2	2								2	
Burglary	61	49	7	2	3		21	28			
Burglary and grand larceny	1	1						1			
Carnal knowledge of female child	1	1					1				
Concealed weapons	30	18	11		1			13		5	
Cruelty to animals	1	1						1			
Embezzlement	1		1								
Escape	4	4						4			
False pretenses	2				2						
Forgery, first degree	3	3					3				
Forgery, second degree	4	3		1			2	1			
Forgery, third degree	3				3						
Gaming	121	25	11	78	7			3		22	
Incest	1		1								
Larceny, grand	131	91	25	5	10		36	55			
Larceny, petit	13	12	1					7	1	4	
Manslaughter, first degree	8	7		1			5	2			
Manslaughter, second degree	1	1						1			
Murder, first degree	4	3	1				3				
Murder, second degree	8	4	2	1	1		4				
Perjury	5	1	1		3		1				
Poisoning spring	1		1								
Preventing peaceable employment	1	1						1			
R. R. cars, throwing or shooting into	1	1					1				
Receiving stolen property	1	1						1			
Removing mortgaged property	1	1						1			
Roads, failing to work public	1	1								1	
Sabbath, desecration	2		2								
Selling liquor without license	2	1			1					1	
Sodomy	3	1	1		1			1			
Totals	488	291	72	90	35		88	147	2	53	1

Percentage of convictions in case disposed of, 60.
Predominant crime—Grand larceny.

FIFTH JUDICIAL CIRCUIT.

FIFTH JUDICIAL CIRCUIT.

Composed of the Counties of Autauga, Chambers, Chilton, Coosa, Elmore, Macon, Randolph and Tallapoosa—Hon. S. L. Brewer, Solicitor, Tuskegee, Ala.

CHARACTERS OF OFFENSE.	No. of cases disposed of	Convictions.	Acquittals.	Nolle Proseques.	Abated or withdrawn.	NUMBER OF SENTENCES TO				Fines paid or Secured.	Escaped.	In a's Hospital
						Death.	Penitentiary.	Hard labor.	Jail.			
Abusive, obscene, insulting language	51	38	2	11				8		30		
Adultery and fornication	7	1	4	2				1				
Affray	19	16	1	2				2		14		
Aiding prisoner to escape	1	2			1							
Arson, first degree	2	2					2					
Arson, second degree	3	1		2			1					
Arson, third degree	1		1									
Arson of insured goods	1			1								
Assault	12	9	2	1				3		6		
Assault and battery	27	18	2	7				6		12		
Assault with intent to murder	26	15	3	7	1		15					
Assault with intent to ravish	6	5	1				5					
Assault and battery with weapon	72	59	8	4	1			21		38		
Bastardy	4			3	1							
Bigamy	2	2					2					
Breaking fence	2	1		1						1		
Burglary	95	81	7	6	1		77	4				
Card playing on Sunday	13	8	2	3						8		
Concealing stolen property	1	1								1		
Concealed weapons	79	50	13	16				19		31		
Cruelty to animals	2	2								2		
Defacing property	3			3								
Disturbing public assembly	1	1								1		
Disturbing religious worship	14	9	1	2	2			1		8		
Embezzlement	3	1	1	1				1				
Exposure of person	2	1	1							1		
False pretenses	6	3		3			3					
Forgery, second degree	17	13		4			12			1		
Gaming	15	13		2				7		6		
Larceny, grand	83	65	3	14	1		63	2				
Larceny, petit	29	20	3	5	1			6		14		
Lottery	1	1						1				
Manslaughter, first degree	6	6					6					
Manslaughter, second degree	1		1									
Miscegenation	2	1			1		1					
Murder, first degree	5	3	2			2	1					
Murder, second degree	22	16	4	2			15				1	
Perjury	4	2	1	1			2					
Permitting Evasion of revenue law	1	1								1		
Poisoning well	2	2					2					
Practicing medicine without license	5	3		2				1		2		
Practicing dentistry without license	1	1								1		
Presenting gun or pistol	6	6						1		5		
Public drunkenness	14	6	1	7				1		5		
Rape	5		5									
R. R. cars, throwing or shooting into	1	1								1		
Removing mortgaged property	3	1		2			1					
Resisting officer	1			1								
Roads, defaulting overseer	1	1								1		
Roads, failing to work public	5	2		3						2		
Robbery	1	1					1					
Sabbath, desecration	1	1								1		
Seduction	1			1								
Selling firearms to minor	1	1								1		
Selling liquor to minor	1	1								1		
Selling liquor without license	80	43	10	24	3			6		37		

FIFTH JUDICIAL CIRCUIT—Continued.

CHARACTERS OF OFFENSE.	No. of cases disposed of	Convictions.	Acquittals.	Nolle Prosequies.	Abated or withdrawn.	NUMBER OF SEN- TENCES TO				Fines paid or Secured.	Escaped.	Insane Hos'tal
						Death.	Peniten- tiary.	Hard labor.	Jail.			
Shooting on public road.....	2	2	...	...	...	...	...	...	...	2	...	...
Sunrise and sunset law violations.....	1	1	...	...	...	...	...	...	...	1	...	...
Trespass after warning.....	7	...	...	6	1	...	...	...	...	...	...	...
Unlawful injury to animals.....	11	9	1	1	...	...	...	...	...	9	...	...
Violating written contract.....	1	...	...	1	...	...	...	...	...	...	...	...
Totals.....	796	549	82	151	14	2	209	91	...	245	1	1

Percentage of convictions in cases disposed of, 69.

Predominant Crime—burglary.

SIXTH JUDICIAL CIRCUIT.

SIXTH JUDICIAL CIRCUIT.

Composed of the counties of Lamar, Fayette, Greene, Sumter, Pickens and Tuscaloosa.
Hon. L. D. Godfrey, Solicitor, Gainesville, Alabama.

CHARACTERS OF OFFENSE.	No. of cases disposed of.	Convictions.	Acquittals.	Nolle proseques.	Abated or withdrawn.	NUMBER OF SENTENCES TO				Fines paid or secured.
						Death.	Penitentiary.	Hard Labor.	Jail.	
Abusive, obscene, insulting language.....	45	26	6	13				3		23
Adultery and fornication.....	5	2		3				1		1
Affray.....	1			1						
Aiding prisoner to escape.....	2	1			1			1		
Altering mark or brand.....	1			1						
Arson, 2nd degree.....	2		2							
Arson, 3rd degree.....	1		1							
Assault and battery.....	25	18	6	1				3		15
Assault with intent to murder.....	8	5	1	1	1		5			
Assault with intent to ravish.....	3	1	2					1		
Assault and battery with weapon.....	46	32	6	7	1			6		26
Attempt at arson.....	2	2								2
Attempt at burglary.....	2	2								2
Attempt at bestiality.....	1	1								1
Attempt at forgery.....	1	1								1
Attempt to commit perjury.....	1	1								1
Bestiality.....	1			1						
Breaking fence.....	1		1							
Bringing stolen property into county.....	1	1						1		
Burglary.....	53	36	5	8	4		3	33		
Burglary and grand larceny.....	2			2						
Concealed weapons.....	74	41	16	16	1			14		27
Cruelty to animals.....	1	1						1		
Defamation.....	4	1		3						1
Disposing of liquor near place of worship.....	1			1						
Disturbing females.....	4	2		2						2
Disturbing public assembly.....	2	2								2
Disturbing religious worship.....	19	9	5	5				2		7
Embezzlement.....	8		1	7						
Escape.....	7	7						6		1
Exposure of person.....	1	1								1
False pretenses.....	13	2	2	9				1		1
Falsifying tax list.....	1			1						
Forgery, second degree.....	7	5		2			5			
Forgery, third degree.....	3	1	2				1			
Gaming.....	28	19	3	6				2		17
Horse-racing on public road.....	2		1	1						
Injury to building.....	2	2						2		
Larceny, grand.....	104	57	24	21	2		8	49		
Larceny, petit.....	71	66	2	3				27		39
Manslaughter, first degree.....	3	2	1				2			
Manslaughter, second degree.....	7	3	4				2	1		
Murder, second degree.....	10	1	4	4	1		1			
Obscene literature.....	1	1								1
Obstructing railroad.....	2		1	1						
Perjury.....	4		1	2	1					
Presenting gun or pistol.....	2	2								2
Public drunkenness.....	49	27	3	19						27
Rape.....	2	1			1		1			
Removing boat from mooring.....	1	1								1
Removing mortgaged property.....	20	6	3	11						6
Resisting officer.....	2	2								2
Roads, defaulting overseer.....	3	2		1						2
Roads, failing to work public.....	6			6						
Robbery.....	3	2			1		2			
Sabbath, desecration.....	6	5		1				2		3
Selling liquor to minor.....	11	9		2				4		5
Selling mortgaged property.....	2			1	1					

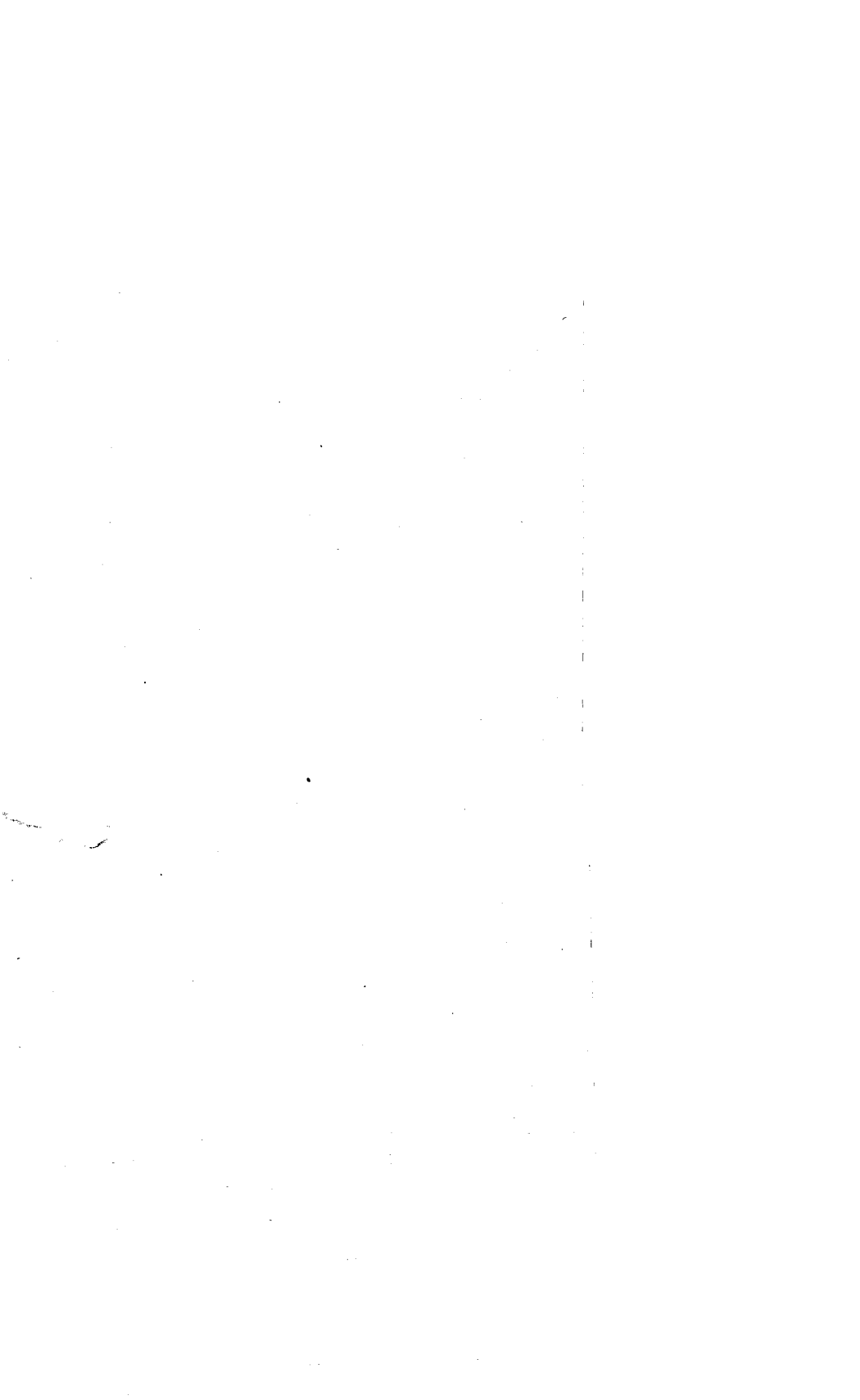
SIXTH JUDICIAL CIRCUIT—Continued.

CHARACTERS OF OFFENSE.	No. of cases disposed of.	Convictions.	Acquittals.	Nolle prosequies.	Abated or withdrawn.	NUMBER OF SEN- TENCES TO				Fines paid or secured.
						Death.	Peniten- tiary.	Hard Labor.	Jail.	
Selling seed cotton.....	2	2	.....	.....	.....	.....	1	.....	.....	1
Sheep-killing dog at large	2	2	.....	.....	.....	.....	.....	.....	.....	2
Shooting on public road.....	2	1	1	.....	.....	.....	.....	.....	.....	1
Sunrise and sunset law violations.....	1	1	.....	.....	.....	.....	.....	.....	.....	1
Temporarily taking property.....	2	2	.....	.....	.....	.....	.....	.....	.....	2
Trespass.....	5	2	.....	3	.....	.....	.....	.....	.....	2
Trespass to realty.....	1	1	.....	.....	.....	.....	.....	.....	.....	1
Unlawful injury to animals.....	11	4	4	.....	3	.....	.....	2	.....	2
Violating prohibitory law.....	11	9	.....	2	.....	.....	.....	6	.....	3
Violating revenue law.....	61	25	9	26	1	.....	.....	9	.....	16
Violating written contract.....	1	1	.....	.....	.....	.....	.....	.....	.....	1
Totals.....	789	459	117	197	16	.....	31	177	.....	251

Percentage of convictions in cases disposed of, 58.

Predominant crime, grand larceny.

The Solicitor of this circuit requests that this report be made to show that he was prevented from accomplishing anything at two courts in his circuit because of defective organization of juries; viz.: Tuscaloosa and Greene courts, Spring Term, 1896



SEVENTH JUDICIAL CIRCUIT.

SEVENTH JUDICIAL CIRCUIT.

Composed of the Counties of Calhoun, Clay, Cleburne, Shelby, St. Clair and Talladega—
Hon. B. F. Wilson, Solicitor, Talladega, Ala.

CHARACTERS OF OFFENSE.	No. of cases disposed of	Convictions.	Acquittals.	Nolle Prosequies.	Abated or withdrawn.	NUMBER OF SENTENCES TO				Fines paid or secured.
						Death.	Penitentiary.	Hard labor.	Jail.	
Abduction and kidnapping	1			1						
Abusive, obscene, insulting language	26	16	5	2	3			4		12
Adultery and fornication	4	4						2		2
Affray	5	4	1							4
Aiding prisoner to escape	2	1		1						1
Arson, third degree	2		2							
Assault	3	2	1					1		1
Assault and battery	14	10	4							10
Assault with intent to murder	7	1	3	2	1		1			
Assault with intent to ravish	5	2	2		1		2			
Assault and Battery with weapon	39	26	8	2	3			5		21
Attempt to murder by poison	1	1					1			
Bastardy	4	2		1	1					2
Bigamy	3	1	1		1		1			
Burglary	21	13	3	5			13			
Card playing on Sunday	1	1								1
Concealing stolen property	1	1								1
Concealed weapons	40	22	9	6	3			12		10
Crime against nature	1	1					1			
Defamation	1	1								1
Disclosing testimony before grand jury	1			1						
Disposing of property of tenant in common	1		1							
Distilling	1				1					
Disturbing females	2	2								2
Disturbing religious worship	3	1	2							1
Embezzlement	6	4		2						4
Escape	1				1					
False pretenses	1		1							
Forgery, second degree	2	1		1			1			
Forgery, third degree	1				1					
Gaming	9	1	3	3	2			1		
Hunting wild hogs	1			1						
Injury to building	1	1								
Keeping gaming table	3	1			2		1			
Larceny, grand	58	34	12	9	3		32	2		
Larceny, petit	18	10	3	5				7		
Malicious mischief	1	1								
Manslaughter, first degree	3	3					2	1		
Manslaughter, second degree	2	2						2		
Murder, first degree	2	2				1	1			
Murder, second degree	10	5	4		1		5			
Perjury	1			1						
Posting obscene pictures	1	1								1
Presenting gun or pistol	2	2						1		1
Public drunkenness	5	4	1					2		2
Rape	2	1	1				1			
Roads, defaulting overseer	1		1							
Roads, failing to work public	1			1						
Seduction	4		2	2						
Selling liquor to minor	2		1	1						1
Selling liquor without license	59	22	18	15	4			3		18
Selling mortgaged property	6	3	2	1				2		1
Sunrise and sunset law violations	2			2						
Trespass	1		1							
Unlawful injury to animals	4	2	1	1						2
Vagrancy	1			1						
Totals	400	212	93	67	28	1	62	45		104

Percentage of convictions in cases disposed of, 53.
Predominant crime--selling liquor without license.

EIGHTH JUDICIAL CIRCUIT.

EIGHTH JUDICIAL CIRCUIT.

Composed of the Counties of Cullman, Lawrence, Limestone, Madison and Morgan—Hon.
Wm. H. Sawtelle, Solicitor, Tusculumbia, Ala.

CHARACTERS OF OFFENSE.	No. of cases disposed of.	Convictions.	Acquittals.	Nolle	Proseques.	Abated or withdrawn.	NUMBER OF SENTENCES TO				Fines paid or secured.
							Death.	Penitentiary.	Hard labor.	Jail.	
Abandoning family.....	2	1			1				1		
Abusive, obscene, insulting language.....	21	8	2		6	5			2		6
Adultery and fornication.....	3		1		1	1					
Affray.....	2	2									2
Arson, first degree.....	3	2			1			2			
Arson, second degree.....	2				2						
Assault.....	13	7	1		5						7
Assault and battery.....	4	1	2			1					1
Assault with intent to murder.....	18	5	1		7	5		5			
Assault with intent to ravish.....	2	1				1		1			
Assault and battery with weapon.....	23	15	4		3	1			1		14
Bawdy-house keeping.....	2				2						
Bigamy.....	3				3						
Burglary.....	24	13	5		4	2		9	4		
Camp hunting.....	1	1									1
Card playing on Sunday.....	2		2								
Concealed weapons.....	68	25	15		15	13			4	1	20
Defamation.....	4	1	1		1	1					1
Disposing of mortgaged property.....	10		6	4							
Disturbing religious worship.....	5	1	1		3						1
Embezzlement.....	12	1			11			1			
Engaging in business without license.....	3	1				2					1
Escape.....	3	2	1								2
Failure to testify.....	1				1						
False pretenses.....	11	2	5		2	2			1		1
Forgery, second degree.....	5	2	1		2			2			
Gaming.....	26	14	1		4	7					14
Gaming-house keeping.....	2				2						
Incest.....	2	1			1			1			
Keeping bowling alley without license.....	2					2					
Larceny, grand.....	56	20	16		8	12		14	6		
Larceny, petit.....	9	5	1		2	1			3		2
Malicious mischief.....	2	1			1						1
Marking hog.....	1		1								
Mayhem.....	1	1							1		
Manslaughter, first degree.....	2	1			1			1			
Murder, first degree.....	3	3						3			
Murder, second degree.....	12	1	3		8			1			
Officer dealing in county claims.....	4	2			2						2
Perjury.....	6	1			3	2		1			
Profanity in public place.....	4	2	1		1						2
Prostitution.....	2	2								2	
Public drunkenness.....	9	8			1						8
R. R. cars, throwing or shooting into.....	1	1						1			
Removing mortgaged property.....	3				1	2					
Resisting officer.....	1				1						
Roads, defaulting overseer.....	1		1								
Roads, failing to work public.....	5				5						
Robbery.....	2				2						
Selling liquor to minor.....	1	1									1
Selling liquor on election day.....	2	1	1								1
Selling liquor without license.....	29	6			21	2					6
Selling mortgaged property.....	1				1						
Shooting on public road.....	1	1									1
Swearing in presence of females.....	4	4									4
Trespass.....	2		2								

EIGHTH JUDICIAL CIRCUIT—Continued.

CHARACTERS OF OFFENSE.	No. of cases disposed of.	Convictions.	Acquittals.	Nolle Prosequies.	Abated or withdrawn.	NUMBER OF SEN- TENCES TO				Fines paid or secured.
						Death.	Peniten- tiary.	Hard labor.	Jail.	
Trespass after warning.....	1	...	...	1	...	...	...	...	...	...
Vagrancy.....	13	1	...	6	6	...	...	...	...	1
Various offenses.....	9	...	...	...	9	...	...	...	...	...
Violating revenue law.....	2	1	...	1	...	...	...	...	...	1
Totals.....	468	169	75	147	77	...	42	23	3	101

Percentage of convictions in cases disposed of, 36.

Predominant crime—concealed weapons.

NINTH JUDICIAL CIRCUIT.

NINTH JUDICIAL CIRCUIT.

Composed of the counties of Cherokee, DeKalb, Jackson, Marshall, Blount and Etowah. (Jackson county having a separate Solicitor, is not included in this statement, but will be found elsewhere in this report.) Hon. John G. Winston, Solicitor, Guntersville, Ala.

CHARACTER OF OFFENSE.	No. of cases disposed of.	Convictions.	Acquittals.	Nolle proseques.	Abated or withdrawn.	NUMBER OF SENTENCES TO				Fines paid or secured.	Escaped.
						Death.	Penitentiary.	Hard Labor.	Jail.		
Abduction and kidnapping	1				1						
Abusive, obscene, insulting language	59	31	9	16	3			2		29	
Adeltery and fornication	15	3	6	6				2		1	
Aiding prisoner to escape	1		1								
Altering mark or brand	1			1							
Arson, 2nd degree	2			2							
Arson, 3rd degree	1	1						1			
Assault and battery	87	40	16	23	8			6		34	
Assault with intent to murder	13	4	5	3	1		3	1			
Bastardy	5	4	1							4	
Bestiality	2		1	1							
Bigamy	2		1	1							
Breaking fence	3	1	2							1	
Burglary	3	1	1	1			1				
Burglary and grand larceny	3	2		1			2				
Card playing on Sunday	8	6			2					6	
Concealed weapons	106	29	42	28	7			4		24	1
Conspiracy	1		1								
Cruelty to animals	1	1								1	
Defacing property	1				1						
Defamation	12	5	2	4	1			1		4	
Disturbing females	11	3	2	6						3	
Disturbing public assembly	1		1								
Disturbing religious worship	12	1	9	2						1	
Embezzlement	4	1	1	2			1				
Failure to report births	2		1	1							
False imprisonment	1			1							
False Pretenses	4		1	3							
Jamming	30	11	6	8	5			3		8	
Influencing voter	1			1							
Larceny, grand	39	12	17	6	4		8	4			
Larceny, petit	15	7	4	4				4		3	
Malicious mischief	2			2							
Manslaughter, first degree	4	4					4				
Murder, first degree	2	1	1				1				
Murder, second degree	12	3	4	3	2		3				
Negligent escape	1		1								
Obstructing railroad	1				1						
Perjury	2		1		1						
Practicing medicine without license	2	1	1							1	
Public drunkenness	21	9	5	7						9	
R. R. cars, throwing or shooting into	1	1					1				
Resisting officer	1	1								1	
Riot and unlawful assembly	5	5								5	
Roads, defaulting overseer	5	1	2	2						1	
Sabbath, desecration	1	1								1	
Seduction	5	1		2	2			1			
Selling liquor to inebriate	1			1							
Selling liquor to minor	1		1								
Selling liquor without license	60	8	21	24	7			1		7	
Sending threatening or abusive letter	2	1	1							1	
Sheep-killing dog at large	2		1	1							
Shooting on public road	1		1								
Sunrise and sunset law violations	2			2							
Trespass	9	1	7		1					1	
Unlawfully Using personal property	1			1							
Vagrancy	5	2		2	1			2			
Violating revenue law	2	1		1						1	
Voting illegally	1			1							
Totals	599	204	177	170	48		24	32		147	1

Percentage of convictions in cases disposed of, 34.

Predominating crime, concealed weapons.

TENTH JUDICIAL CIRCUIT.

TENTH JUDICIAL CIRCUIT.

Composed of the Counties of Jefferson, Walker and Winston.—Hon. C. W. Ferguson,
Solicitor, Birmingham, Ala.

CHARACTER OF OFFENSE.	No. of cases disposed of.	Convictions.	Acquittals.	Nolle Prosequies.	Abated or withdrawn.	Number of Sentences to				Fines paid or Secured.	Escaped.
						Death.	Penitentiary.	Hard Labor.	Jail.		
Abusive, obscene, insulting language.....	49	20	16	12	1			3		17	
Adultery and fornication.....	5	1	2	2				1			
Affray.....	1	1								1	
Arson, 2d degree.....	2	1		1			1				
Assault.....	1	1								1	
Assault and battery.....	10	6	2	2				1		5	
Assault with intent to murder.....	11	6	1	4			6				
Assault and battery with weapon.....	73	35	23	11	4			6	3	25	1
Bigamy.....	1			1							
Breaking fence.....	1			1							
Burglary.....	10	8	1	1			8				
Burglary and grand larceny.....	3	2	1				2				
Camp hunting.....	1	1								1	
Concealed weapons.....	42	18	10	14						18	
Conspiracy.....	1		1								
Defamation.....	6		1	3	2						
Destroying railroad bridge.....	2			2							
Disturbing females.....	1			1							
Disturbing religious worship.....	5		2	3							
Escape.....	1	1								1	
False pretenses.....	1			1							
Forgery, second degree.....	1		1								
Gaming.....	2		1	1							
Gaming-house keeping.....	1			1							
Intimidation.....	1				1						
Larceny, grand.....	27	12	11	4			12				
Larceny, petit.....	10	8	1	1				4	2	2	
Malicious mischief.....	3		2		1						
Maltreatment of convict.....	1		1								
Manslaughter, first degree.....	3	3					3				
Manslaughter, second degree.....	1	1						1			
Murder, first degree.....	7	2	4	1			2				
Murder, second degree.....	6	1	4	1			1				
Obstructing public road.....	1			1							
Perjury.....	2	1	1				1				
Presenting gun or pistol.....	5		3	1	1						
Public drunkenness.....	3	1		1	1					1	
Receiving stolen property.....	1			1							
Removing mortgaged property.....	1	1					1				
Resisting officer.....	1		1								
Riot and unlawful assembly.....	13	7	3	3				4	3		
Roads, failing to work public.....	1			1							
Robbery.....	2	1	1				1				
Sabbath, desecration.....	4	3		1						3	
Seduction.....	1			1							
Selling liquor to minor.....	1		1								
Selling liquor without license.....	2	2								2	
Selling mortgaged property.....	3		1	2							
Trespass after warning.....	5		3		2						
Unlawful injury to animals.....	2	1	1							1	
Vagrancy.....	1			1							
Violating prohibitory law.....	16	12	3	1						12	

TENTH JUDICIAL CIRCUIT—Continued.

CHARACTER OF OFFENSE.	No. of cases disposed of.	Convictions.	Acquittals.	Nolle Prosequies.	Abated or withdrawn.	Number of Sentences.				Fines paid or Secured.	Escaped.
						Death.	Penitentiary.	Hard Labor.	Jail.		
Violating revenue law.....	8	1	2	4	1	.....	.....	.....	.....	1	..
Whitecapping	1	.....	1	.....	.....	.....	.....	.....	.....	.....	..
Willful injury to property.....	1	1	.....	.....	.....	.....	.....	.....	.....	1	..
Totals.....	365	159	106	85	15	.....	38	20	8	92	1

Percentage of convictions in cases disposed of, 44.

Predominant crime—Assault and battery with weapon.



ELEVENTH JUDICIAL CIRCUIT.

ELEVENTH JUDICIAL CIRCUIT.

Composed of the Counties of Colbert, Franklin, Lauderdale and Marion.—Hon. A. H. Carmichael, Solicitor, Tuscombina, Alabama.

CHARACTERS OF OFFENSE.	No. of cases disposed of.	Convictions.	Acquittals.	Nolle Proseques.	Abated or withdrawn.	Number of Sentences to				Fines paid or Secured.	Released by court.
						Death.	Penitentiary.	Hard Labor.	Jail.		
Abusive, obscene, insulting language.....	26	18	1	7				2		15	1
Adultery and fornication.....	9	4	1	4			1	1		2	
Affray.....	1	1								1	
Arson, 2d degree.....	3	1		2			1				
Assault.....	20	6	5	9				1		5	
Assault and battery.....	8	7		1				1		6	
Assault with intent to murder.....	2	2					2				
Assault with intent to ravish.....	1		1								
Assault and battery with weapon.....	30	22	2	6				7		15	
Bastardy.....	1	1						1			
Burglary.....	9	5		3	1		4	1			
Compound felony.....	1			1							
Concealed weapons.....	51	23	13	15				6		17	
Defamation.....	1	1								1	
Dispos'g of property of tenant in common.....	1			1							
Disturbing females.....	1	1						1			
Disturbing religious worship.....	12	7	4	1				2		5	
Forgery, second degree.....	1	1					1				
Forgery, third degree.....	1	1						1			
Gaming.....	27	21	2	4				4		17	
Larceny, grand.....	33	20	6	7			18	2			
Larceny, petit.....	11	7	4					2	1	4	
Malicious mischief.....	2	1	1							1	
Manslaughter, first degree.....	1	1					1				
Murder, first degree.....	1	1				1					
Murder, second degree.....	6	4	2				4				
Perjury.....	2			1	1						
Presenting gun or pistol.....	2	1		1						1	
Public drunkenness.....	12	9	2	1				1		8	
Rape.....	2	1		1			1				
Receiving deposits knowing bank to be in failing condition.....	44			44							
Refusing to appear before grand jury.....	4	4								4	
Removing mortgaged property.....	2			2							
Resisting officer.....	2	1	1							1	
Roads, defaulting apportioner.....	3	3								3	
Roads, defaulting overseer.....	5	5								5	
Robbery.....	1			1							
Sabbath, desecration.....	8	8								8	
Selling liquor on election day.....	1	1								1	
Selling liquor without license.....	25	6	10	9						6	
Selling mortgaged property.....	2			2							
Shooting on public road.....	4	4						1		3	
Sodomy.....	1	1					1				
Sunrise and sunset law violations.....	5	5						4		1	
Temporarily taking property.....	1	1						1			
Trading choking horse.....	1		1								
Trespass after warning.....	6	2	1	3						2	
Unlawful injury to animals.....	2		1	1							
Voting illegally.....	1			1							
Totals.....	396	208	58	128	2	1	34	39	1	132	1

Percentage of convictions in cases disposed of, 53.

Predominant crime—Concealed weapons.

TWELFTH JUDICIAL CIRCUIT.

TWELFTH JUDICIAL CIRCUIT.

Composed of the Counties of Coffee, Geneva, Henry, Pike and Covington.—Hon. Richard H. Parks, Solicitor, Troy, Alabama.

CHARACTER OF OFFENSE.	No. of cases disposed of.	Convictions.	Acquittals.	Nolle Proseques.	Abated or withdrawn.	Number of Sentences to				Fines paid or Secured.	Insane Hospital.
						Death.	Penitentiary.	Hard Labor.	Jail.		
Abusive, obscene, insulting language...	24	21	1	3				1		20	
Adultery and fornication...	16	12	1	3				2		10	
Affray	2	1	1							1	
Aiding prisoner to escape...	1	1						1			
Arson, 2d degree...	5		2	3							
Arson, 3d degree...	1	1								1	
Assault and battery...	46	39	4	1	2			11		28	
Assault with intent to murder...	15	6	3	2	4		3	2		1	
Assault with intent to ravish...	2	1	1				1				
Assault & battery with weapon...	2	2						1		1	
Bastardy	2	1	1							1	
Bigamy	3	1		2			1				
Burglary	32	23	3	5	1		20	2			1
Concealed weapons...	105	63	19	9	14			12		51	
Crime against nature	2	2					2				
Cruelty to animals	3		3								
Defamation	1			1							
Disposing of mortgaged property	3		1	2							
Dispos'g of property of tenant in common	1		1								
Disturbing religious worship	10	9	1							9	
Embezzlement	1			1							
Escape	1			1							
False pretenses	5		1	3	1						
Forfeiture	2	2								2	
Forgery, second degree	10		2	4	4						
Forgery, third degree	1	1						1			
Gaming	13	10	1	2				3		7	
Larceny, grand	32	22	5	3	2		22				
Larceny, petit	20	13	3		1			6	1	9	
Manslaughter, first degree	2	1	1				1				
Manslaughter, second degree	3	1	2							1	
Murder, first degree	1	1					1				
Murder, second degree	13	8	4		1		8				
Negligent escape	2	1		1						1	
Obstructing railroad	2		2								
Perjury	1	1					1				
Permitting minor to play pool	2	2								2	
Practicing medicine without license	6	5		1						5	
Presenting gun or pistol	3	2	1							2	
Public drunkenness	8	6	2					1		5	
Rape	2	2					2				
Removing mortgag'd property	2		1	1							
Resisting officer	2	2								2	
Roads, defaulting overseer	1		1								
Roads, failing to work public	4	2	2							2	
Sabbath, desecration	16	13	2	1						13	
Seduction	2	1	1				1				
Selling liquor to minor	1			1							
Selling liquor without license	33	22	5	5	1		1	3		18	
Selling mortgaged property	1	1								1	
Sheep-killing dog at large	1		1								
Shooting on public road	2	2								2	
Trespass	1	1								1	
Unlawful injury to animals	2	2								2	
Vagrancy	3	3								3	
Violating prohibitory law	1			1							
Totals	478	313	78	56	31		64	46	1	201	1

Percentage of convictions in cases disposed of, 65.

Predominant crime—Carrying concealed weapons.

THIRTEENTH JUDICIAL CIRCUIT.

THIRTEENTH JUDICIAL CIRCUIT.

Composed of the counties of Baldwin, Mobile and Washington. Hon. Stewart Brooks.
Solicitor, Mobile, Alabama.

CHARACTERS OF OFFENSE.	No. of cases disposed of.	Convictions.	Acquittals.	Nolle Prosequies.	Abated or withdrawn.	Number of Sentences to				Fines paid or Secured.	Fines Remitted by court.	Verdict set aside by the court.
						Death.	Penitentiary.	Hard Labor.	Jail.			
Abusive, obscene and insulting language.....	6	5	1							5		
Adultery and fornication.....	5	4		1				1		2	1	
Affray.....	3	2		1						2		
Aiding prisoner to escape.....	1			1								
Assault and battery.....	9	6	1	1	1			3	1	2		
Assault with intent to rob.....	1	1					1					
Assault and battery with weapon.....	2	2							1	1		
Burglary.....	2	1		1				1				
Concealed weapons.....	6	4	2							4		
Disturbing religious worship.....	3		2	1								
Extortion.....	1	1								1		
Forgery, second degree.....	1			1								
Gaming.....	8	8								8		
Giving liquor to minor.....	2	2								2		
Keeping ferry without license.....	1			1								
Larceny, grand.....	9	5	2	2			3	1				1
Larceny, petit.....	2	1	1							1		
Manslaughter, first degree.....	3	3					3					
Murder, second degree.....	4	2	2				2					
Negligent escape.....	1		1									
Permitting minor to play pool.....	2	2								2		
Presenting gun or pistol.....	1		1									
Public drunkenness.....	2	2								2		
Roads, failing to work public.....	1	1							1			
Robbery.....	2	2					2					
Selling liquor to minor.....	1		1									
Selling liquor without license.....	2	2								2		
Sheep-killing dog at large.....	1		1									
Sunrise and sunset law violations.....	1	1						1				
Trespass after warning.....	1		1									
Violating hard labor contract.....	1			1								
Totals.....	85	57	16	11	1		11	7	3	34	1	1

Percentage of convictions in cases disposed of, 67.

Predominant crime, assault and battery, and grand larceny.

CRIMINAL COURT,
JEFFERSON COUNTY.

JEFFERSON CRIMINAL COURT.

Hon. Jas. H. Little, Solicitor, until disabled; Lee C. Bradley, Solicitor, pro tem thereafter.

(Hon. C. W. Ferguson, Solicitor of the Tenth Circuit, is by law Assistant Solicitor in this Court.)

CHARACTER OF OFFENSE.	No. of Cases disposed of.	Convictions.	Acquittals.	Nolle Proseques.	Abated or withdrawn.	NUMBER OF SENTENCE TO				Fines paid or secured.	Insane Hospital.	New trial.
						Death.	Penitentiary.	Hard Labor.	Jail.			
Abduction and kidnapping.....	1			1								
Abusive, obscene, insulting language	210	56	64	80	10			28	4	24		
Adultery and fornication.....	39	4	8	19	8		1	2	1			
Arson, 2nd degree.....	4		2	2								
Assault.....	4	2		2				2				
Assault and battery.....	83	23	19	38	3			9	1	13		
Assault with intent to murder.....	67	32	18	11	6		18	14				
Assault with intent to ravish.....	1	1					1					
Assault with intent to rob.....	2	1	1				1					
Assault and battery with weapon.....	287	110	87	73	17			61	8	40	1	
Attempt at arson.....	1			1								
Attempt at burglary.....	8	7		1			2	4	1			
Bastardy.....	1			1								
Bribery.....	7		1	6								
Burglary.....	19	13	4	2			5	8				
Burglary and grand larceny.....	129	101	12	9	7		31	69			1	
Chicken eating hog at large.....	1		1									
Concealed weapons.....	122	43	23	47	9			31		12		
Conspiracy.....	2			2								
Contempt.....	1	1								1		
Crime against nature.....	1	1						1				
Cruelty to animals.....	3	1	2					1				
Decoying child under 12 years.....	1			1								
Defamation.....	30	3	6	14	7			1	1	1		
Disturbing females.....	5	1	1	2	1					1		
Disturbing public assembly.....	13		4		9							
Disturbing religious worship.....	2			2								
Embezzlement.....	28	4	5	14	5		3		1			
Escape.....	18	14		4				13	1			
Extortion.....	3			2	1							
Failure to execute process.....	1			1								
False pretenses.....	27	5	2	6	14		1	2	2			
Forgery, second degree.....	24	14		8	2		4	10				
Forgery, third degree.....	1			1								
Gaming.....	60	33	2	18	7			14		19		
Gaming-house keeping.....	7	1		6				1				
Impeachment.....	1			1								
Inducing witness to leave State.....	2				2							
Issuing execution without itemized cost bill.....	1			1								
Issuing change bills.....	2				2							
Intimidation.....	10		2	5	3							
Larceny, grand.....	222	153	30	17	22		40	110			3	
Larceny, petit.....	101	75	6	16	4		13	55	7			
Lottery.....	1			1								
Malicious mischief.....	19	4	4	2	9		2		1	1		
Malicious prosecution.....	1	1						1				
Mayhem.....	1	1								1		
Manslaughter, first degree.....	3	3					3					
Manslaughter, second degree.....	6	5		1				4	1			
Murder, first degree.....	23	8	10	2	3	4	3				1	
Murder, second degree.....	36	16	10	7	3		12	3			1	
Nuisance.....	15	4	2		9					4		
Obstructing public road.....	1		1									
Perjury.....	15	4	1	9	1		4					
Permitting gaming.....	1	1						1				

JEFFERSON CRIMINAL COURT—Continued.

Hon. Jas. H. Little, Solicitor, until disabled; Lee C. Bradley, Solicitor pro tem thereafter.
(Hon. C. W. Ferguson, Solicitor of the Tenth Circuit, is by law Assistant Solicitor
in this Court.)

CHARACTER OF OFFENSE.	No. of cases disposed of.	Convictions.	Acquittals.	Nolle Proseques.	Abated or withdrawn.	Number of Sentences to				Fines paid or Secured.	Insane Hospital.	New trial.
						Death.	Penitentiary.	Hard Labor.	Jail.			
Possessing counterfeit money.....	1			1								
Practicing medicine without license.....	1		1									
Presenting gun or pistol.....	23	5	9	8	1			5				
Public drunkenness.....	2	1	1							1		
Rape.....	7	3	3		1		3					
Railroad cars, throwing or shooting into.....	3	2		1			1	1				
Receiving deposits knowing bank to be in failing condition.....	3			2	1							
Receiving stolen property.....	16	9	2	4	1			4	2	2		1
Registering illegally.....	1			1								
Removing mortgaged property.....	8		1	1	6							
Renting room for gaming.....	2	1		1				1				
Resisting officer.....	2			1	1							
Resisting process.....	8	3	3	2				3				
Robbery.....	15	8	3	4			8					
Sabbath, desecration.....	41	9	13	19						9		
Seduction.....	1			1								
Selling liquor to inebriate.....	5		3	2								
Selling liquor to minor.....	1		1									
Selling liquor without license.....	1			1								
Selling mortgaged property.....	1			1								
Shooting on public road.....	1	1								1		
Trespass.....	4		1	3								
Trespass after warning.....	36	1	10	12	13					1		
Vagrancy.....	21	6	5	7	3		3	2		1		
Violating cigarette law.....	2	1		1						1		
Violating election law.....	1	1								1		
Violating garnishment law.....	6	1		3	2					1		
Violating military law.....	1		1									
Violating mining law.....	4				4							
Violating revenue law.....	60	9	6	43	2			2		7		
Violating prohibitory law.....	2			1	1							
Willful injury to building.....	3		2	1								
Wrecking train.....	1		1									
Totals.....	1958	807	394	555	202	4	159	463	31	142	7	1

Percentage of convictions in cases disposed of, 41.

Predominant crime—Assault and battery with weapon.

CITY COURT OF MONTGOMERY.

CITY COURT OF MONTGOMERY.

Hon. Tennent Lomax, Solicitor, Montgomery, Alabama.

CHARACTERS OF OFFENSE.	No. of cases disposed of.	Convictions	Acquittals.	Nolle prosequies.	Abated or withdrawn.	NUMBER OF SEN- TENCES TO				Fines paid or Secured.	Insane Hospital.	Fines remitted.	Died.
						Death	Peni- tentiary	Hard Labor	Jail.				
Abusive, obscene, insulting language.	20	11	3	6				3		7	1		
Adultery and fornication.	9	5		2	2		2	2		1			
Affray	3		1	2									
Arson, 2nd degree.	5	2	3				2						
Assault	3	2	1							1		1	
Assault and battery	37	29	3	4	1			22	1	5	1		
Assault with intent to murder	37	22	6	7	2		14	7		1			
Assault with intent to ravish.	2	1	1				1						
Attempt at arson	1	1					1						
Attempt at burglary	2	2						2					
Bawdy-house keeping.	2	2						1		1			
Bigamy	3	2		1				2					
Burglary	19	15	4				7	8					
Burglary and grand larceny	36	30	2	2	2		21	9					
Concealed weapons.	37	22	10	5				15		7			
Crime against nature	1	1					1						
Cruelty to animals.	2	1		1				1					
Embezzlement	9	4	2	2	1			2		2			
Escape	2		1	1									
Failure to enter seed cotton bought	1			1									
False pretenses.	14	7	2	4	1		3	4					
Forgery, second degree	15	9		6			8	1					
Gaming	90	63	8	19				35		25	3		
Hunting on lands without permission	3	3						1		2			
Incest	1	1					1						
Keeping gaming table	2		2										
Larceny, grand	160	127	23	8	2		6	61					
Larceny, petit	13	8	3	2				6	1	1			
Malicious mischief	3		3										
Mayhem	1	1					1						
Manslaughter, first degree	3	2	1				2						
Manslaughter, second degree	1	1						1					
Murder, first degree	1		1										
Murder, second degree	4	3	1				3						
Nightwalking	53	27	10	15	1			15		12			
Obstructing railroad	2	2					2						
Perjury	7	6	1				6						
Practicing medicine without license	1			1									
Presenting gun or pistol	2	2						2					
Rape	1		1										
Receiving stolen property	4	3		1				3					
Refusing to assist officer	1		1										
Removing mortgaged property	8	1	4	3						1			
Resisting officer	6	2	4					1	1				
Roads, failing to work public	6	2	2	2						2			
Robbery	2	2					2						
Sabbath, desecration	26	13	3	10						13			
Selling mortgaged property	1		1										
Selling oleomargarine	3	3								3			
Selling pool on foreign race	1		1										
Severing property from freehold	1			1									
Temporarily taking property	1	1						1					
Trespass after warning	4	2		2				1		1			
Trespass to realty	2		1	1									
Unlawful injury to animals	4	2	2					1		1			
Vagrancy	1	1								1			

CITY COURT OF MONTGOMERY—Continued.

Hon. Tennent Lomax, Solicitor, Montgomery, Alabama.

CHARACTER OF OFFENSE.	No. of cases disposed of.	Convictions.	Acquittals.	Nolle prosequies.	Abated or withdrawn.	Number of Sentences to				Fines paid or Secured.	Insane Hospital.	Fines remitted.	Died.
						Death.	Penitentiary.	Hard Labor.	Jail.				
Violating prohibitory law.	1	1	...	...	...	...	...	...	...	1	...	...	...
Violating revenue law.	43	52	4	7	...	...	...	...	...	21	...	11	...
Totals	723	479	116	116	12	...	143	207	3	108	2	15	1

Percentage of convictions in cases disposed of, 66.

Predominant crime—Grand larceny.

COUNTY COURT, MONTGONERY COUNTY.

COUNTY COURT OF MONTGOMERY.

Hon. Tenent Lomax, Solicitor, Montgomery, Alabama.

CHARACTERS OF OFFENSE.	No. of cases disposed of	Convictions.	Acquittals.	Nolle Prosequies.	Abated or withdrawn.	NUMBER OF SENTENCES TO				or Fines paid or Secured.
						Death.	Penitentiary.	Hard labor.	Jail.	
Abusive, obscene, insulting language.....	113	36	59	11	7			29		7
Adultery and fornication.....	4	1	1	1	1					1
Affray.....	1	1								1
Assault and battery.....	22	5	13	3	1			4		1
Assault and Battery with weapon.....	69	33	30	4	2			25		8
Attempt at felony.....	2	1	1							1
Bawdy-house keeping.....	2		2							
Concealed weapons.....	7	4	2	1				4		
Decoying child under 12 years.....	2		1		1					
Defamation.....	8		6	2						
Disposing of mortgaged property.....	1		1							
Disturbing religious worship.....	7	5			2			3		2
Embezzlement.....	7		2	5						
False pretenses.....	8		5	3						
Gaming.....	31	15	7	9				8		7
Hunting on lands without permission.....	1				1					
Larceny, petit.....	5	4	1					2		2
Malicious mischief.....	4	1	3					1		
Malicious prosecution.....	2		1		1					
Nightwalking.....	15	8	5	2				6		2
Nuisance.....	2			2						
Presenting gun or pistol.....	5	2	2		1			1		1
Receiving stolen property.....	2			1	1					
Resisting officer.....	3		2	1						
Roads, failing to work public.....	6				6					
Sabbath, desecration.....	2	2								2
Selling bread without name of baker on it.....	56			56						
Selling liquor without license.....	3	1	2							1
Trespass after warning.....	24	9	11	3	1			4		5
Trespass to realty.....	5	4		1						4
Unlawful injury to animals.....	1		1							
Vagrancy.....	28	4	8	13	3			4		
Violating revenue law.....	3	1	2							1
Totals.....	451	137	168	118	28			91		46

Percentage of convictions in case disposed of, 30.

Predominant crime—Abusive, obscene, insulting language.

CITY COURT OF MOBILE.

CITY COURT OF MOBILE.

Hon. Jas. H. Webb, Solicitor, Mobile, Alabama.

CHARACTER OF OFFENSE.	No of cases disposed of.	Convictions.	Acquittals.	Nolle proseques.	Abated or withdrawn.	NUMBER OF SENTENCES TO				Fines paid or secured.	Died.	
						Death.	Penitentiary.	Hard Labor.	Jail.			
Abandoning family.....	1		1									
Abusive, obscene and insulting language.....	21	21							21			
Arson, 2nd degree.....	1	1						1				
Assault and battery.....	102	83	13	5	1			6	64	13		
Assault with intent to murder.....	10	7	1	2			7					
Assault with intent to ravish.....	1			1								
Assault with intent to rob.....	1	1					1					
Bawdy-house keeping.....	9	8			1						8	
Bigamy.....	1	1						1				
Burglary.....	15	9	1	5			5	4				
Carnal knowledge of female child.....	1		1									
Concealed weapons.....	76	64	7	3	2			30	19	15		
Cruelty to animals.....	3	2	1							2		
Defamation.....	1	1							1			
Disclosing testimony before grand jury.....	1	1							1			
Embezzlement.....	6	2	2	2			1	1				
Employing minor to sell liquor.....	3	3								3		
False Pretenses.....	2			2								
Forgery, second degree.....	4	2	1	1			2					
Gaming.....	4	4								2	2	
Keeping gaming table.....	2	2								2		
Larceny, grand.....	90	70	6	9	5		20	48	2			
Larceny, petit.....	21	19		2				5	13		1	
Malicious mischief.....	2	2							2			
Manslaughter, first degree.....	2	2					2					
Manslaughter, second degree.....	3	3					3					
Miscegenation.....	1		1									
Murder, first degree.....	3	3				3						
Murder, second degree.....	5	5					5					
Obscene literature.....	1		1									
Perjury.....	7	1	2	4				1				
Permitting gaming.....	7	6	1						1	5		
Practicing medicine without license.....	1			1								
Presenting gun or pistol.....	2	2							2			
R. R. cars, throwing or shooting into.....	1	1						1				
Receiving stolen property.....	4	2		2				2				
Removal of personal property.....	1			1								
Resisting officer.....	4	1	1	2					1			
Roads, defaulting apportioner.....	1			1								
Roads, failing to work public.....	3	2		1					1	1		
Robbery.....	2	1			1		1					
Sabbath, desecration.....	24	21		3					2	19		
Selling liquor to minor.....	19	4	8	7					1	3		
Selling liquor without license.....	8	7		1						7		
Temporarily taking animal.....	2	2							2			
Trespass.....	15		3	12								
Vagrancy.....	1			1								
Violating prohibitory law.....	1	1								1		
Violating revenue law.....	5	4	1						1	3		
Totals.....	501	371	52	68	10	3	47	100	138	82		

Percentage of convictions in cases disposed of, 74.

Predominant crime—assault and battery.

CITY COURT OF ANNISTON.

CITY COURT OF ANNISTON.

Hon. A. P. Agee, Solicitor, Anniston, Alabama.

CHARACTER OF OFFENSE.	No. of cases disposed of.	Convictions.	Acquittals.	Nolle proseques.	Abated or withdrawn.	NUMBER OF SENTENCES TO				Fines paid or secured.
						Death.	Penitentiary.	Hard Labor.	Jail.	
usive, obscene, insulting language.....	4	1	2	1						1
ultery and fornication.....	1	1						1		
ffray.....	4	2	2							2
iding prisoner to escape.....	1	1					1			
ssault with intent to murder.....	2	2					2			
ssault with intent to ravish.....	1	1					1			
ssault and battery with weapon.....	8	5	2	1				2		3
tttempt at sodomy.....	1	1						1		
urglary.....	6	5		1			2	3		
urglary and grand larceny.....	2	1		1			1			
ard playing on Sunday.....	3	3								3
oncealed weapons.....	9	5	2	2				2		3
ruefully to animals.....	1		1							
mbezzlement.....	1	1						1		
alse pretenses.....	1		1							
orgery, second degree.....	1	1					1			
aming.....	15	8	1	6				1		7
aming-house keeping.....	2		1	1						
aving liquor to minor.....	1		1							
arceny, grand.....	18	11	6	1			10	1		
anslaughter, first degree.....	1	1					1			
urder, second degree.....	2		1	1						
erjury.....	2	2					2			
ublic drunkenness.....	1	1								1
obbery.....	1	1					1			
elling liquor to minor.....	1		1							
elling liquor without license.....	3			3						
elling mortgaged property.....	2		1	1						
emporary taking animals.....	1	1								1
inlawful injury to animals.....	1	1								1
Totals.....	97	56	22	19			22	12		22

Percentage of convictions in cases disposed of, 58.

Predominant crime—Grand larceny.

CITY COURT OF GADSDEN.

CITY COURT OF GADSDEN.

Hon. Hubert T. Davis, Solicitor, Gadsden, Alabama.

CHARACTERS OF OFFENSE.	No. of cases disposed of.	Convictions.	Acquittals.	Nolle prosequies.	Abated or withdrawn.	Number of Sentences to				Fines paid or Secured
						Death.	Penitentiary	Hard Labor.	Jail.	
usive, obscene, insulting language.....	16	12	.....	4	.....	.....	.....	1	.....	11
ultery and fornication.....	2	2	.....	.....	.....	.....	.....	2	.....	.....
ding prisoner to escape.....	1	.....	1	.....	.....	.....	.....	.....	.....	.....
son, 1st degree.....	2	.....	2	.....	.....	.....	.....	.....	.....	.....
sault and battery.....	26	18	7	1	.....	.....	.....	2	.....	16
sault with intent to murder.....	4	1	2	1	.....	.....	.....	1	.....	.....
sault with intent to ravish.....	4	.....	2	2	.....	.....	.....	.....	.....	.....
sault and battery with weapon.....	6	4	2	.....	.....	.....	.....	.....	.....	4
wdy-house keeping.....	2	.....	2	.....	.....	.....	.....	.....	.....	.....
rglary.....	16	7	1	8	.....	.....	.....	7	.....	.....
ncealed weapons.....	27	5	10	10	2	.....	.....	3	.....	2
uelty to animals.....	2	2	.....	.....	.....	.....	.....	.....	.....	2
famation.....	6	2	.....	4	.....	.....	.....	.....	.....	2
sturbing females.....	10	4	4	2	.....	.....	.....	4	.....	.....
sturbing religious worship.....	4	4	.....	.....	.....	.....	.....	.....	.....	4
rbegzlement.....	2	.....	2	.....	.....	.....	.....	.....	.....	.....
mploying minor to sell liquor.....	2	.....	2	.....	.....	.....	.....	.....	.....	.....
lse pretenses.....	2	.....	.....	2	.....	.....	.....	.....	.....	.....
rgery, second degree.....	2	2	.....	.....	.....	.....	2	.....	.....	.....
ming.....	28	12	6	10	.....	.....	.....	8	.....	4
cest.....	1	.....	1	.....	.....	.....	.....	.....	.....	.....
rceny, grand.....	49	20	16	9	4	.....	8	12	.....	.....
rceny, petit.....	5	1	.....	4	.....	.....	.....	1	.....	.....
licious mischief.....	2	2	.....	.....	.....	.....	.....	2	.....	.....
scegenation.....	2	2	.....	.....	.....	.....	2	.....	.....	.....
rder, second degree.....	4	2	2	.....	.....	.....	2	.....	.....	.....
rrjury.....	2	.....	1	1	.....	.....	.....	.....	.....	.....
esenting gun or pistol.....	3	2	1	.....	.....	.....	.....	.....	.....	2
blic drunkenness.....	1	1	.....	.....	.....	.....	.....	1	.....	.....
pe.....	4	.....	2	2	.....	.....	.....	.....	.....	.....
bbery.....	2	2	.....	.....	.....	.....	2	.....	.....	.....
ling liquor to minor.....	8	.....	.....	8	.....	.....	.....	.....	.....	.....
ling mortgaged property.....	6	2	2	2	.....	.....	.....	.....	.....	2
Totals.....	253	109	68	62	14	.....	16	44	.....	49

Percentage of convictions in cases disposed of, 43.

Predominant crime—Grand larceny.

CITY COURT OF TALLADEGA.

CITY COURT OF TALLADEGA.

Hon. Alex. M. Garber, Solicitor, Talladega, Alabama.

CHARACTER OF OFFENSE.	No. of cases disposed of.	Convictions.	Acquittals.	Nolle Prosequies.	Abated or withdrawn.	Number of Sentences to				Fines paid or Secured.
						Death.	Penitentiary.	Hard Labor.	Jail.	
Abusive, obscene, insulting language.....	11	4	.....	5	2	.....	.....	2	.....	2
Adultery and fornication.....	2	.....	.....	2	.....	.....	.....	.....	.....	.....
Affray.....	6	3	1	2	.....	.....	.....	.....	.....	3
Arson, 2d degree.....	1	.....	1	.....	.....	.....	.....	.....	.....	.....
Assault and battery.....	11	5	4	2	.....	.....	.....	3	.....	2
Assault with intent to murder.....	8	1	2	5	.....	.....	1	.....	.....	.....
Assault with intent to ravish.....	2	.....	1	1	.....	.....	.....	.....	.....	.....
Assault and battery with weapon.....	20	8	5	6	1	.....	.....	2	.....	6
Bawdy-house keeping.....	1	.....	.....	.....	1	.....	.....	.....	.....	.....
Burglary.....	8	8	.....	.....	.....	.....	5	3	.....	.....
Compound felony.....	1	.....	1	.....	.....	.....	.....	.....	.....	.....
Concealing stolen property.....	2	.....	.....	2	.....	.....	.....	.....	.....	.....
Concealed weapons.....	20	11	4	5	.....	.....	.....	6	.....	5
Defamation.....	1	.....	.....	1	.....	.....	.....	.....	.....	.....
Disposing of mortgaged property.....	6	1	1	4	.....	.....	.....	1	.....	.....
Disturbing females.....	4	.....	.....	4	.....	.....	.....	.....	.....	.....
Disturbing religious worship.....	7	.....	1	6	.....	.....	.....	.....	.....	.....
False pretenses.....	1	.....	.....	1	.....	.....	.....	.....	.....	.....
Gaming.....	8	4	.....	4	.....	.....	.....	4	.....	.....
Gaming-house keeping.....	1	.....	.....	1	.....	.....	.....	.....	.....	.....
Killing fish with explosive.....	1	.....	.....	1	.....	.....	.....	.....	.....	.....
Larceny, grand.....	25	19	2	4	.....	.....	5	14	.....	.....
Larceny, petit.....	6	2	2	2	.....	.....	.....	2	.....	.....
Malicious mischief.....	1	1	.....	.....	.....	.....	.....	.....	.....	1
Manslaughter, first degree.....	1	1	.....	.....	.....	.....	1	.....	.....	.....
Murder, first degree.....	5	2	2	1	.....	.....	2	.....	.....	.....
Murder, second degree.....	1	1	.....	.....	.....	.....	1	.....	.....	.....
Perjury.....	1	.....	.....	1	.....	.....	.....	.....	.....	.....
Resisting officer.....	1	.....	.....	1	.....	.....	.....	.....	.....	.....
Roads, failing to work public.....	2	.....	.....	2	.....	.....	.....	.....	.....	.....
Selling liquor without license.....	9	1	.....	8	.....	.....	.....	.....	.....	1
Temporarily taking property.....	1	1	.....	.....	.....	.....	.....	1	.....	.....
Trespass after warning.....	1	.....	1	.....	.....	.....	.....	.....	.....	.....
Unlawful injury to animals.....	1	.....	.....	1	.....	.....	.....	.....	.....	.....
Violating revenue law.....	1	.....	.....	1	.....	.....	.....	.....	.....	.....
Totals.....	178	73	28	73	4	.....	15	38	.....	20

Percentage of convictions in cases disposed of, 41.

Predominant crime—Grand larceny.

The Solicitor of this court explains—"that the greater part of the prosecutions for misdemeanors are begun by affidavit before Justices of the Peace and require dismissal either on account of defective warrants or for proving frivolous; also that this report contains a large number of old cases, transferred by the last Legislature from the Circuit Court of Talladega to this court, at least 75 per cent. of which were dismissed for want of evidence and other causes; all of which reduces the percentage of convictions."

CRIMINAL COURT, PIKE COUNTY.

CRIMINAL COURT OF PIKE COUNTY.

Hon. Wm. H. Samford, Solicitor, Troy, Alabama.

CHARACTER OF OFFENSE.	No. of cases disposed of.	Convictions.	Acquittals.	Nolle Prosequies.	Abated or withdrawn.	Number of Sentences.				Fines paid or Secured.	Escaped.
						Death.	Penitentiary.	Hard Labor.	Jail.		
Abusive, obscene, insulting language	24	16	2	5	1			2		14	
Adultery and fornication	16	9	4	3				4		5	
Affray	3	3								3	
Assault and battery	15	6	2	6	1					6	
Assault and battery with weapon	39	25	7	7				5		20	
Attempt at felony	2	2						1		1	
Breaking fence	4	2	1		1					2	
Buying stolen property	4	1	3							1	
Concealed Weapons	53	33	12	8				22		11	
Conspiracy	3	2	1					1		1	
Cruelty to animals	2	1			1			1			
Defamation	7		4	3							
Disposing of mortgaged property	1	1								1	
Disturbing females	7	3	2	2				1		2	
Disturbing religious worship	4	2	2					1		1	
False pretenses	13	4	2	5	2			3		1	
Gaming	30	18	6	6				5		13	
Keeping pool table without license	2	2								2	
Killing fish with explosives	4	2		2						2	
Killing stock	7	6	1							6	
Larceny, grand	15	9	4	2				5		4	
Malicious mischief	4		3		1						
Officer dealing in county claims	1			1							
Peddling without license	2	1			1					1	
Presenting gun or pistol	2	2								2	
Public drunkenness	6	3	2		1					3	
Roads, failing to work public	1			1							
Sabbath, desecration	27	13	7	7				1		12	
Selling cartridges without licensr	2		2							1	
Selling liquor to inebriate	2	2						1		1	
Selling liquor to minor	3	2	1							2	
Selling liquor without license	2	1		1						1	
Shooting on public road	1		1								
Taking cotton from bale, as factor	2		2								
Temporarily taking property	2	2						1		1	
Trespass	10	2	4	4					1		1
Trespass to realty	2		2								
Unlawfully destroying property	1		1								
Vagrancy	11	7	4					4		3	
Violating criminal contract	19	15	2	1	1			7		8	
Willfully firing woods	1			1							
Totals	356	197	84	65	10			65	1	130	1

Percentage of convictions in cases disposed of, 55.

Predominant crime—Concealed Weapons.

CIRCUIT COURT OF MADISON COUNTY.

CIRCUIT COURT OF MADISON COUNTY.

Hon. Richard H. Lowe, Solicitor, Huntsville, Alabama.

CHARACTERS OF OFFENSE.	No. of cases disposed of	Convictions.	Acquittals.	Nolle Proseques.	Abated or withdrawn.	NUMBER OF SEN- TENCES TO				Fines paid or costs taxed
						Death.	Peniten- tiary.	Hard labor.	Jail.	
Abusive, obscene, insulting language.....	3	...	...	3	...	...	...	...	...	...
Adultery and fornication.....	1	1	...	...	...	...	...	1	...	...
Aiding prisoner to escape.....	1	...	...	1	...	...	...	...	...	...
Arson, second degree.....	2	1	...	1	...	...	...	1	...	...
Assault.....	3	2	...	1	...	...	...	2	...	...
Assault and battery.....	3	2	1	...	...	...	...	...	...	...
Assault with intent to murder.....	13	6	2	5	...	...	3	2	...	...
Assault with intent to ravish.....	1	...	1	...	...	...	...	...	...	...
Assault and battery with weapon.....	2	1	...	1	...	...	...	...	...	...
Burglary.....	23	14	3	6	...	...	3	11	...	...
Card playing on Sunday.....	2	1	...	1	...	...	...	...	...	...
Concealing stolen property.....	1	...	...	1	...	...	...	...	...	...
Concealed weapons.....	26	12	3	10	1	...	...	3	...	...
Disturbing religious worship.....	3	...	1	2	...	...	...	...	...	...
False pretenses.....	1	...	...	...	1	...	...	...	...	...
Gaming.....	15	11	...	3	1	...	...	5	...	...
Incest.....	2	1	...	1	...	...	...	1	...	...
Keeping pool table without license.....	2	1	...	1	...	...	...	...	...	...
Larceny, grand.....	60	34	11	14	1	...	10	24	...	...
Larceny, petit.....	1	1	...	...	...	...	...	1	...	...
Manslaughter, second degree.....	2	2	...	...	...	...	...	...	...	...
Murder, second degree.....	1	1	...	...	...	...	1	...	...	...
Negligent escape.....	1	1	...	...	...	...	...	1	...	...
Rape.....	2	...	2	...	...	...	...	...	...	...
Robbery.....	6	...	3	3	...	...	...	...	...	...
Sabbath, desecration.....	21	20	...	1	...	...	...	...	...	...
Selling cigarettes to minor.....	1	1	...	...	...	...	...	...	...	...
Selling liquor to minor.....	1	...	...	1	...	...	...	...	...	...
Selling liquor without license.....	2	...	...	2	...	...	...	...	...	...
Trespass after warning.....	6	...	...	6	...	...	...	...	...	...
Violating revenue law.....	3	2	...	1	...	...	...	...	...	...
Totals.....	211	115	27	65	4	...	17	52	...	...

Percentage of convictions in cases disposed of, 55.

Predominant crime—grand larceny.

CIRCUIT COURT OF JACKSON.

CIRCUIT COURT OF JACKSON COUNTY.

Hon. R. C. Hunt, Solicitor, Scottsboro, Alabama.

CHARACTERS OF OFFENSE.	No. of cases disposed of.	Convictions.	Acquittals.	Nolle Prosequies.	Abated or withdrawn.	NUMBER OF SENTENCES TO			
						Death.	Penitentiary.	Hard labor.	Jail.
Abusive, obscene, insulting language.....	7	4	1	2				1	
Arson, first degree.....	1		1						
Assault.....	14	12		2				5	
Assault and battery.....	1	1							
Assault with intent to murder.....	9	2	4	3			2		
Burglary.....	5	4		1				4	
Burglary and larceny.....	5	4		1			1	3	
Concealed weapons.....	8	1	3	2	2			1	
Defamation.....	1	1							
Disposing of mortgaged property.....	1	1							
Disturbing religious worship.....	1	1						1	
Embezzlement.....	1			1					
Gaming.....	1	1							
Larceny, grand.....	8	7		1				7	
Larceny, petit.....	4	3	1						
Murder, second degree.....	3	1	1	1			1		
Robbery.....	4	4					4		
Selling liquor to minor.....	2		2						
Selling liquor without license.....	1	1						1	
Totals.....	77	48	13	14	2		8	23	

Percentage of convictions in cases disposed of, 62.

Predominant crime—Assault.

CITY COURT OF BRIDGEPORT.

CITY COURT OF BRIDGEPORT.

Hon. R. C. Hunt, Solicitor, Scottsboro, Alabama.

CHARACTERS OF OFFENSE.	No. of cases disposed of.	Convictions.	Acquittals.	Nolle Prosequies.	Abated or withdrawn.	NUMBER OF SEN- TENCES TO				Fines paid or secured.
						Death.	Peniten- tiary.	Hard labor.	Jail.	
Abusive, obscene, insulting language.....	13	11	.....	2	.....	.....	.....	1	.....	10
Adultery and fornication.....	5	2	.....	3	.....	.....	.....	.....	.....	2
Affray.....	1	1	.....	.....	.....	.....	.....	.....	.....	1
Assault.....	7	5	1	1	.....	.....	.....	.....	.....	5
Bawdy-house keeping.....	2	2	.....	.....	.....	.....	.....	2	.....	.....
Concealed weapons.....	21	5	11	5	.....	.....	.....	.....	.....	5
Disturbing religious worship.....	2	.....	2	.....	.....	.....	.....	.....	.....	.....
Gaming.....	15	5	4	6	.....	.....	.....	1	.....	4
Larceny, petit.....	1	1	.....	.....	.....	.....	.....	1	.....	.....
Presenting gun or pistol.....	1	.....	.....	1	.....	.....	.....	.....	.....	.....
Public drunkenness.....	2	.....	.....	2	.....	.....	.....	.....	.....	.....
Roads, defaulting overseer.....	3	.....	.....	3	.....	.....	.....	.....	.....	.....
Selling liquor to minor.....	4	1	1	2	.....	.....	.....	.....	.....	1
Selling liquor on election day.....	2	1	.....	1	.....	.....	.....	.....	.....	1
Selling liquor without license.....	8	1	2	5	.....	.....	.....	.....	.....	1
Selling mortgaged property.....	1	.....	.....	1	.....	.....	.....	.....	.....	.....
Violating revenue law.....	1	1	.....	.....	.....	.....	.....	.....	.....	1
Totals.....	89	36	21	32	.....	.....	.....	5	.....	31

Percentage of convictions in cases disposed of, 40.

Predominant crime—concealed weapons.

CITY COURT of SELMA.

CITY COURT OF SELMA.

Hon. W. W. Quarles, Solicitor, Selma, Alabama.

CHARACTERS OF OFFENSE.	No. of cases disposed of.	Convictions.	Acquittals.	Nolle proseques.	Abated or withdrawn.	NUMBER OF SENTENCES TO				Fines paid or secured.
						Death.	Peniten- tiary.	Hard Labor.	Jail.	
Arson, second degree.....	4	3	1				3			...
Assault and battery with weapon.....	4	4						2		2
Attempt at burglary.....	1	1						1		
Burglary.....	10	7	2	1				7		...
Concealed weapons.....	9	7	2					6		1
False pretenses.....	3	1	2							1
Larceny, grand.....	13	12	1					12		
Larceny, petit.....	4	4						4		
Manslaughter, first degree.....	2	2					1	1		
Murder, first degree.....	1	1				1				
Murder, second degree.....	3	1	2				1			
Perjury.....	1		1							
Removing mortgaged property.....	1		1							
Resisting officer.....	1	1								1
Robbery.....	1	1					1			
Selling liquor to minor.....	1		1				..			
Selling liquor without license.....	1		1							
Totals.....	60	45	14	1		1	6	33		5

Percentage of convictions in cases disposed of, 75.

Predominant crime—Grand larceny.

CIRCUIT COURT OF ETOWAH COUNTY.

CIRCUIT COURT OF ETOWAH COUNTY.

Hon. Hubert T. Davis, Solicitor, Gadsden, Alabama.

CHARACTERS OF OFFENSE.	No. of cases disposed of.	Convictions.	Acquittals.	Nolle prosequies.	Abated or withdrawn.	NUMBER OF SENTENCES TO				Fines paid or secured.
						Death.	Penitentiary.	Hard Labor.	Jail.	
Adultery and fornication.....	1	...	...	1	...	...	...	...	...	...
Arson, third degree.....	1	...	...	...	1	...	...	...	...	...
Assault and battery.....	8	2	2	2	2	...	...	1	...	1
Assault with intent to murder.....	1	...	...	...	1	...	...	...	...	...
Bastardy.....	1	...	1	...	...	...	...	...	...	...
Burglary.....	1	...	...	...	1	...	...	...	...	...
Concealed weapons.....	4	1	...	...	3	...	...	1	...	...
Defamation.....	2	...	...	2	...	...	...	...	...	...
Larceny, grand.....	5	1	...	2	1	...	...	1	...	...
Larceny, petit.....	1	...	...	...	1	...	...	...	...	...
Murder, first degree.....	1	1	...	...	1	1	...	...	...	...
Selling liquor to minor.....	2	...	...	1	1	...	...	...	...	...
Totals.....	28	5	3	8	12	1	...	3	...	1

Percentage of convictions in cases disposed of, 18.

Predominant crime—Assault and battery.

APPENDIX "A."

APPENDIX "A."

COLLECTIONS.

The following table shows the collections made by this department during the period from December 1st, 1894, to Sept. 30th, 1896:

Dec. 5, '94.	From F. P. Pearce, on 16th section note....	\$ 307 20
Dec. 20, '94.	From G. C. Elliott, on 16th section note....	27 00
Dec. 22, '94.	From S. F. Jenkins on 16th section note....	4 45
Jan. 15, '95.	From S. P. Jenkins, on 16th section note....	17 90
Mar. 21, '95.	From the Postal Telegraph Cable Co., com- promise of litigation for back taxes.....	5,000 00
Mar. 25, '95.	From S. P. Jenkins, on 16th section note....	8 92
Aug. 21, '95.	From J. L. Cobbs, W. D. Brown, and C. L. Mathews, sureties on official bond of F. C. Randolph, judge of probate, from 1880 to 1886.....	145 80
Oct. 19, '95.	From G. C. Elliott, on 16th section note....	35 85
Nov. 30, '95.	From W. D. Brown and C. T. Pollard, sureties on official bond of F. C. Randolph, probate judge, from 1886 to 1892.....	1,405 73
Dec. 3, '95.	From F. M. Billing, security upon an addi- tional official bond of F. C. Randolph, judge of probate.....	1,400 00
Dec. 12, '95.	From Montgomery Arms Co., for license money which Randolph, judge of probate, should have collected.....	200 00
Feb. 17, '96.	From H. B. Fowler, on 16th section note....	71 75
Feb. 22, '96.	From G. C. Elliott, on 16th section note....	19 40
Mar. 18, '96.	From S. P. Jenkins, on 16th section note....	8 90
May 21, '96	From D. P. West, license money which Ran- dolph, judge of probate, should have col- lected.....	300 00
Total.....		\$ 8,952 90

APPENDIX "B."

APPENDIX "B."*OPINIONS.*

This appendix contains copies of some of the official opinions rendered by the present Attorney-General, which are deemed by him to be of general public interest- [Acts of 1892-93, p. 852.]

STATE OF ALABAMA,**OFFICE OF ATTORNEY-GENERAL,**

MONTGOMERY, ALA., Dec. 20th, 1894.

SUBJECT: REFUNDING TAXES WRONGFULLY COLLECTED,—CONSTRUCTION OF STATUTES RELATING THERETO.

HON. JOHN PURIFOY,

Auditor of the State of Alabama, Capitol:

Dear Sir :—Your letter of the 19th inst., calling my attention to a certain conflict between Acts of the General Assembly upon the question of refunding taxes wrongfully collected is before me.

The Act approved February 18th, 1891, (pamphlet Acts, 1890-91, page 1139), does not seek to repeal the act approved Dec. 6th, 1888 (pamphlet Acts, 1888-89, page 6). As the latter act does not by its terms repeal the former, it becomes my duty to so construe them as that they both may stand if possible. Following that rule of construction, I am forced to say that: Sections 2 and 3 of the act approved Dec. 6th, 1888 (pamphlet Acts, 1888-89, pages 6 and 7), set out the machinery which shall be followed, and in addition to the machinery therein provided for, I find that by the act approved Feb. 18th, 1891, it is further made essential that before the Judge of Probate of the county issues the certificate notifying you of your duty to refund, he shall first have the sanction of the court of county commissioners, to the drawing of such certificate upon you. Therefore, hereafter, in addition to demanding a strict compliance with the terms of Section 2 of the act approved Dec. 6th, 1888, it would be right and proper for you also to demand, under the terms of the act of February 18th, 1891, a certified copy of the minutes of the commissioners court of the county, showing that they authorized the Judge of Probate to execute the certificate therein provided for.

It seems to me that by this means the provisions of both acts can be allowed to stand, and both be given due force and effect.

Yours very truly,

WILLIAM C. FITTS,
Attorney-General.

STATE OF ALABAMA,

OFFICE OF ATTORNEY-GENERAL,

MONTGOMERY, ALA., Jan. 12, 1895.

SUBJECT: PAYMENT OF FEES OR EXPENSES FOR THE REMOVAL OF PRISONERS.

HON. JOHN PURIFOY,

State Auditor, Capitol:

Dear Sir :—Section 4872 of the Code of 1886, as amended, provides that certain fees and expenses shall be paid by the State for the removal of prisoners from one county to another within the State. The manner in which the State shall pay these expenses is as follows: "To be paid by the State upon his (the sheriff's) sworn account therefor, accompanied by a certificate of the clerk of the court in which such prisoner is triable, that such fees have been reported to and docketed by him."—Middle of page 258, vol. 2, Code of 1886. This section, like all other statutes putting costs and expenses against the State, must be strictly construed in favor of the State.—*Skinner v. Dawson*, 87 Ala., page 348. You can only audit and approve for payment out of the State Treasury a removal bill when it comes squarely up to the requirements contained in the statute. We must construe the statute as we find it, not as we think it ought to be, or as experience has indicated it should be.

These might be good grounds for legislative enactment, but cannot change the rule of construction.

It is manifest from the language of the law that you are without any power to approve a removal bill until it comes to your hands with two companions which the law says must accompany it, viz: The sworn statement of the sheriff and the certificate of the clerk of the court in which such prisoner is triable, that such fees have been reported to and docketed by him. The absence of either of these attending witnesses, commands the withholding of your official approval. The courts of justices of the peace and notaries public, with powers of justices, are not courts of record, and have no clerks, manifestly, it is absolutely impossible for compliance to be made with the requirements of the statute as regards prosecutions pending before the courts of such justices and etc. In this connection I have given special attention to the contents of the attached letter of the 11th inst., from G. M. Morrow, Esq., sheriff of Jefferson county, Ala. The enquiry or rather hypothetical case put by the said sheriff is in the following language: "A person commits a felony in Jefferson county and flees to another county, and is there arrested on a warrant from a justice of the peace of Jefferson county, returnable to him for a preliminary trial. The case is finally triable, of course before the Criminal or Circuit court. The clerk of the Criminal or Circuit court

makes certificate on the bill of removal that a copy of the same has been filed with him, and taxed by him as a part of the costs in said cause."

This inquiry or supposed instance is itself faulty in statement in that it presumes an instance of a warrant from a justice of the peace, returnable to him for a preliminary hearing, and continues—"The case is finally triable, of course, before the Criminal or Circuit court," such a consequence does not follow, of course, or at all events, for the justice of the peace might discharge the defendant from custody. How in that event could the clerk of the Criminal or Circuit court docket the fees in his court, where the cause had never been? And how in the performance of his official duties could he, as such clerk, certify to the Auditor that the prisoner "is triable in his court and that such fees have been reported to and docketed by him?"

The sheriff in his supposed case then adds: "The clerk of the Criminal or Circuit court makes certificate on the bill for removal that a copy of the same has been filed with him, and taxed by him as a part of the costs in said cause." If as the inquiry indicates the sheriff means to suppose a case pending altogether before a justice of the peace, in which the clerk of a higher court is to make such a certificate despite the fact that the case is not legally in his court, and as a mere subterfuge to avoid the hardship of the statute:—if such is the case intended to be supposed, I should say that it would be your duty to disregard such certificate when it reached you, and I may add that the clerk making it would run a risk vastly disproportionate to any advantage which could ensue to him. Suffice it to say that the certificate required can never rightfully be issued by any clerk until the cause is regularly and legally in his court, and until the fees have been docketed there in due course of law, and because they belong there. However harshly a statute may work, for officers to depart in any manner from the established way, or to try to work out by indirect paths what cannot be done directly will prove ill-advised and unsatisfactory. However, even the certificate imagined, in the letter under discussion, if it should be made by the clerk, would fall short of the statutory requirement,—it must go further, and before it becomes good as a protection to you as Auditor, it must contain the recital that the prisoner "is triable" in the court of which the maker of the certificate is the clerk.

From the foregoing observations it is apparent that under existing laws you are powerless to re-imburse sheriffs for removals made on warrants, and in cases pending before magistrates courts in this State. This is to be regretted and should be remedied by the present General Assembly. Doubtless in withholding these removals from magistrates courts the law making power regarded it as but of little consequence that petit offenders be carried back to the scene of their misdemeanors. Certainly there is much force in the idea that good money should not be taken out of the State Treasury in connection with such trivial matters. But in thus cutting off what was likely to become a temptation for abuse, there was a

failure to provide for a very urgent class of removals. When a serious offense is committed,—one in which no expense should be spared in bringing the offender to justice, if the attempt to bring him back is delayed until the case is triable in a court of record, the fugitive will generally make good his escape. It is a matter of common knowledge that such arrests cannot be delayed until a court of record, having a clerk, has met and organized a grand jury, pursuit must be made at once, and arrests must be had on warrants issued by and returnable to justices of the peace. There is an urgent necessity that in cases of felonies removals from county to county should be had and paid for in cases pending before the magistrates' courts, the right could be so guarded as to prevent abuse and imposition upon the State Treasury.

Yours very truly,

WILLIAM C. FITTS,
Attorney-General.

STATE OF ALABAMA,

OFFICE OF ATTORNEY-GENERAL,

MONTGOMERY, ALA., Jan. 31, 1895.

SUBJECT: SOLICITORS OTHER THAN CIRCUIT SOLICITORS, AND THEIR COMPENSATION.

To His Excellency,

WILLIAM C. OATES,

Governor of Alabama :

Dear Sir :—Replying to your command of to-day for a statement of the number of Solicitors of City Courts, and how much, and in what way they are paid, I respectfully submit the following report :

While they are not all legally called City Court Solicitors, I shall include all independant Solicitors of less dignity than Circuit Solicitors, as that is doubtless what you want.

[1.] Solicitor of Jackson county and of City Court of Bridgeport, Hon. R. C. Hunt, holds under appointment of the Governor under act of February 17th, 1885. Acts of 1884-5, page 675. He is entitled to all the fees earned by him.

[2.] Solicitor of Madison county, Hon. R. H. Lowe, holds under appointment of Governor, under act of February 17th, 1885. Acts of 1884-5, page 675. He gets all the fees he earns.

[3.] Solicitor of Criminal Court of Pike county, Hon. R. H. Parks, appointed by Circuit Solicitor and gets fees as earned up to \$500.00 per annum; excess over \$500.00 goes into the Treasury of Pike county. Acts of 1888-9, page 631, Section 16.

[4.] Solicitor of City Court of Talladega, Hon. Alex. M. Garber, appointed under act of February 15th, 1893. Acts of 1892-3, page 546. He gets all fees earned by him as such Solicitor.

[5.] Solicitor of City Court of Gadsden, Hon. H. T. Davis, gets all the fees he earns up to the sum of \$1,500.00 per annum, and holds under act of February 18th, 1891. Acts of 1890-1, page 1096.

[6.] Solicitor of the City Court of Anniston, Hon. A. P. Agee, gets all fees earned up to the sum of \$2,000.00 per annum and residue over \$2,000.00 goes into the Treasury of Calhoun county for the use of fine and forfeiture fund of Anniston City Court. Acts of 1892-3, page 336.

[7.] Solicitor of the City Court of Mobile, Hon. J. E. Webb, gets a fixed salary of \$3,000.00 per annum and all fees go into the Treasury of Mobile county. Acts of 1886-7, pages 723 and 724.

[8.] Solicitor of Montgomery county, Hon. T. Lomax, gets a fixed salary of \$3,000.00 per annum, and all fees go into the County Treasury. Acts of 1892-3, page 437. He is allowed a deputy to assist him at \$600.00 per annum, to be paid out of the fees earned in the County Court.

[9.] Solicitor of Jefferson Criminal Court, Hon. James H. Little, gets a fixed salary of \$3,000.00 per annum; and is allowed an additional sum of \$3,000.00 for the purpose of procuring legal assistance and clerical aid; \$500.00 of which \$3,000.00 must be paid to the Solicitor of the Tenth Judicial Circuit. See Acts of 1888-9, page 18 and page 992; Acts of 1890-1, pages 1148, 1149.

[10.] In the City Court of Selma the State is represented by the Circuit Solicitor, Hon. W. W. Quarles.

[11.] The City Court of Decatur and the District Court of Colbert and Lauderdale, having both been recently abolished, are not included herein.

[12.] In addition to the foregoing, it is to be remembered that the various Circuit Solicitors do, under the Acts of 1886-7, page 161, appoint County Solicitors in all the various counties where County Courts are held, who receive \$500.00 per annum, provided they earn so much.

All of the foregoing information is most respectfully submitted.

Yours very truly,

WILLIAM C. FITTS,
Attorney-General.

STATE OF ALABAMA,

OFFICE OF ATTORNEY-GENERAL,

MONTGOMERY, ALA., Feb. 4, 1895.

SUBJECT: APPLICATION OF "LLOYDS" FOR LICENSE TO ENGAGE IN FIRE INSURANCE BUSINESS IN ALABAMA.

HON. JOHN PURIFOY, *Auditor of the State of Alabama, Capitol:*

Dear Sir:—In reply to your letter of the 7th of January past, I have to say that I have given some considerable thought and study to the matter of the application of certain insurance concerns known as "Lloyds" for license at your hands.

I find that these "Lloyds" are, as you suggest, peculiar to themselves and quite nondescript. The idea seems to be an importation from England with various shrewd American modifications.

An ardent defender of this new system has said:

"A 'Lloyds' is not a corporation or a co-partnership, nor is one individual member of the Lloyds responsible with or to any of the others, but simply and solely himself agrees to indemnify the loser by fire for a certain named proportion of his loss. If the 'Lloyds' is composed of twenty members, the only association between them is that each gives a full power of attorney, empowering one person or firm to do the business for them, and also appoints a committee from their number to safely care for the money received and to counsel, watch over and advise their attorney."

This may do very well for one who delights in juggling with words, or who takes pleasure in the metaphysical analysis of terms, but will hardly do when applied to practical business.

The evident idea upon which the system proceeds, and which has led to the generic term "Lloyds," is the avoidance of a corporate existence. For this or some other reason, the outward appearance of individual business or, at least, that of a system of limited partnership, is attempted. The term, "Insurance Companies," as used in the insurance laws of this State, has a broader meaning than these applicants seem to realize. The spirit and meaning of that law, and the interpretation which will be put upon it by this office and duly insisted upon, is that it was framed for the purpose of protecting the people of the State from being overreached by unreliable or designing insurance associations of all kinds, whether they call themselves Companies, Associations, Leagues, "Lloyds" or what not.

A "company" is defined to be, "An association of persons, permanent or transient, for the purpose of carrying on some enterprise for the common benefit." These persons are confessedly associated together for the purpose of carrying on an insurance business for the common benefit. Within the true meaning and spirit of the insurance laws, they are "in-

insurance companies," and all laws enacted as touching insurance companies will fall with equal force upon these unincorporated associations. They cannot be allowed to take out license, or engage in business in the State of Alabama until they have complied with all the terms and provisions of Article II. of Title 12 of the Code of Alabama of 1886, being Section 1199 *et seq.*

Among other things, these "Lloyds" will be required to satisfy you that it is "possessed of at least \$100,000 of actual cash capital," etc.

Let it be understood that this opinion treats of only non-resident, or foreign associations, or Lloyds; no question as touching domestic concerns of that kind having as yet presented itself, any opinion in that regard is expressly reserved.

Yours very truly,

WILLIAM C. FITTS,
Attorney-General.

STATE OF ALABAMA,

OFFICE OF ATTORNEY GENERAL,

MONTGOMERY, ALA., April 29, 1895.

SUBJECT: ALABAMA STATE BONDS EXEMPT FROM TAXATION.

HON. JOHN PURIFOY,

State Auditor:

DEAR SIR: I have your favor of the 27th, together with enclosures, viz: letters from C. C. Douglass, Tax Assessor of Mobile county, and Messrs. W. H. Ross & Company, also a copy of the return of said William H. Ross & Company as made to the said Assessor for the year 1895. The material point raised for my investigation is this:

William H. Ross & Company, a mercantile copartnership, having a capital of \$40,000, one-half of which, viz: \$20,000, is invested in Alabama State bonds, claim that the \$20,000 so invested in the bonds is not subject to taxation. Query: Is this contention well taken, or does the fact that the State bonds have become part of the capital of a business concern withdraw from them the immunity from taxation, which is the common accompaniment of such securities?

Section 451 of the Code of 1886 declares an exemption from taxation in favor of all the bonds of the State of Alabama. The case of *The State vs. Stonewall Insurance Company*, 89 Alabama 335, seems to me to fully interpret the statutory provisions exempting the bonds from taxation, and is, to my mind, conclusive of the question under consideration. In that case, part of the capital stock of the insurance company, a corporation, was invested in Alabama State bonds, and the Supreme Court held

that the corporation was entitled to deduct from its property listed for taxation, the amount so invested in the non-taxable bonds of the State. In that case the question was squarely presented, the case having been made up upon an agreed state of facts and the appeal being prosecuted so as to present the single issue as to whether or not the corporation could so deduct from its list that portion of the capital stock invested in the State bonds. The case was fully considered by the Supreme Court and an exhaustive opinion rendered, putting its conclusion on the highest ground and saying "any other construction violates the uniformly observed and maintained policy of the State as to the non-taxability of its bonds—a policy founded on good morals and public justice and honesty, and to which the State is impliedly pledged."

As to this conclusion, the court was not divided. True, one of the justices, and the only one of that bench still in service, is noted as not sitting, but he did not dissent from the conclusion or judgment of the court. We must take the deliberate opinion of the court of last resort as a full and final exposition of the law upon any subject which has passed the scrutiny of its investigations, and while individuals may die and disappear, we cannot believe that fixed principles, so solemnly announced, will be often or lightly changed. My inclination would be to decide that State bonds, when they lose their insignia of retired capital, and by ingenuity, are put as active money into the channels of trade, should bear their ratable share of taxation like other working capital, but the opinion in the Stonewall case, *supra*, and the well known policy of the State to render its securities desirable by means of exemption from taxation, lays a caveat upon this inclination. The Assessor of Mobile county, in the letter before me, when referring to the Stonewall case cited above, says: "I claim that the State ought to have won that case." While I must invite that official to entertain more of respect for the conclusions of the Supreme Court, I can but admire the rugged persistence which prompts him to fight the battle over again, and can only remark that such tenacity is worthy of emulation. The Supreme Court having held that a corporation was entitled to deduct from its tax list that portion of its capital which is invested in Alabama bonds, I am forced to hold that a co-partnership may also make a deduction of that portion of its capital stock which is invested in like bonds. Any other ruling would be inequitable and violative of that mandate of the constitution which enjoins that "the property of private corporations, associations and individuals of the State shall forever be taxed at the same rate," which includes not merely the technical rate, but also the mode, manner and rule as to the assessment. If Wm. H. Ross & Co. can affirmatively show that \$20,000 of their capital is invested in Alabama State bonds, my opinion under authority of *State v. Stonewall Insurance Co.*, *supra*, is that they may deduct that

\$20,000 from the sum total of the capital, and render for taxation the residue.

Yours respectfully,

WILLIAM C. FITTS,
Attorney-General.

STATE OF ALABAMA.

OFFICE OF ATTORNEY-GENERAL,

MONTGOMERY, ALA., June 4, 1895.

SUBJECT: AUTHORITY OF COMMISSIONER OF AGRICULTURE TO MAKE EXHIBITS AT INTERNATIONAL AND STATE EXPOSITIONS.

HON. HECTOR D. LANE,

Commissioner of Agriculture, Montgomery, Ala.:

DEAR SIR: Your favor of the 3rd has been duly received. You desire my construction of sub-division 13 of Section 137 of the Code of Alabama, and my opinion upon the right and propriety of the Commissioner making exhibits at "International and State Expositions." In my opinion you are, under such section, as commissioner, etc., invested with authority to make such exhibits at International and State Expositions as will, in your sound discretion, and with the limited means at hand, best redound to the public good and tend to bring the unrivaled natural advantages of this State as to climate, soil, healthfulness, etc., to the attention of the inhabitants of other States, sections and countries.

Yours very truly,

WILLIAM C. FITTS,
Attorney-General.

STATE OF ALABAMA,

OFFICE OF ATTORNEY-GENERAL,

MONTGOMERY, ALA., Aug. 16, 1895.

SUBJECT: CONSTRUCTION OF THE ACT OF FEBRUARY 9TH, 1895, ENTITLED "AN ACT TO DISPOSE OF LANDS WHICH HAVE BEEN, OR WHICH MAY HEREAFTER BE SOLD FOR TAXES AND BID IN FOR THE STATE, AND WHICH HAVE NOT BEEN REDEEMED OR PURCHASED FROM THE STATE.

HON. JOHN PURIFOY, *State Auditor:*

Dear Sir:—Your inquiries in regard to an act entitled "An act to dispose of lands which have been or which may hereafter be sold for taxes and bid in for the State, and which have not been redeemed or purchased from the State." Acts of 1894-5, page 488, are before me, and I beg to say as follows:

In my opinion section 2 of the act found on page 488 of the Acts of 1894-5, contemplates no such thing as an additional or supplemental list of the lands sold for taxes to be sent by the Auditor to the various Probate Judges. The enactment merely requires the Auditor, as soon as practicable after the first day of January in each year, to forward a list of lands which had, by operation of law, been sold for taxes and had been held by the State for more than two years prior to the issuance of such list. I do not think that you are required to forward instanter notices that such and such pieces of land have passed the limit. My idea is that the Legislature contemplated the sending out of such a list once a year immediately after the first of January, embracing the lands sold for taxes whose limit expired some time during the preceding year. Otherwise you would be required to consume time and patience in making partial reports; a course which is fatal to harmony and accuracy. My view of this is strengthened by section four of the same act which provides for a certain fixed day upon which all these lands so reported should begin to be sold.

Second. I am further of the opinion that the time for the publication of these lists means the three weeks next preceding the date of sale. I cannot see how it could be otherwise. Read in connection with the ensuing sentence it becomes very plain: "He shall also post a copy of this law, and a copy of said list at the court house, and at some public place in each precinct in the county for three weeks before the sale. If there be no newspaper in the county, these posted notices shall be sufficient." All these notices are intended to be displayed or exhibited contemporaneously, and for the three weeks next prior to the commencement of the sales.

Third. I am of the opinion that you may properly supply the various Probate Judges with the printed copies of this act, which are required by them to be posted, one at the court house door, and one at some public place in each precinct. It seems to me otherwise as to the advertising of these tax sales and the lists incident thereto; this latter is under the control of the Probate Judge in each county. In the first portion of section 3 it is unequivocally declared to be his duty to publish in the papers, and to post copies of the law, etc., etc., in each precinct. The latter part of Section 3 requires that the expense of such advertisement shall be paid out of the proceeds of the sales at the same rate that is now paid for advertising land for tax sales. The bills for such advertising must first be sent to the Auditor of the State, and be approved by him before payment by the Probate Judges.

Fourth. Your fourth question presents an inquiry of some little difficulty, but on the whole I am inclined to think that parties redeeming under Section 5 of the act above mentioned are required to pay the fees

specified in Section 7 of the same. Furthermore, the Auditor shall make a deed to such parties so redeeming under Section 5 very much as though the land had been sold at public outcry. The proper form of such deed of redemption has already been passed upon by this department, and differs in its recitals from the form to be used in case of sales, but not in its effect; it is in fact a deed. It must be remembered in this connection that the act treats exclusively of lands which have been in the possession of the State for more than two years, and to which it has a clear and unconditional title. Persons wishing to *re-acquire* such property have no equity which a court will enforce. This has passed from them into the hands of the State, and the State in dispossessing itself of it to any one must give a deed to all its right, title and interest in the same.

Yours very truly,

WILLIAM C. FITTS,
Attorney-General.

STATE OF ALABAMA,

OFFICE OF ATTORNEY GENERAL,

MONTGOMERY, ALA., August 21, '95.

*SUBJECT: POWER OF THE GOVERNOR AND COMMISSIONER OF AGRICULTURE
TO ORDER MONEY OUT OF THE STATE TREASURY.*

HON. JOHN PURIFOY,

State Auditor, Capitol:

Dear Sir:—I have had under consideration your letter of the 17th instant, and in order to make this reply fully intelligible, it is necessary that I repeat herein that part of your letter which was as follows:

“Montgomery, Ala., August 17th, 1895.

“Hon. William C. Fitts,

Attorney-General:

“Dear Sir:—

I have received the following requisition:

“Montgomery, Ala., August 15th, 1895.

“His Excellency,

Wm. C. Oates, Governor,

“Dear Sir:—

I hereby make application for the sum of twenty-five hundred dollars “(2,500.00) to be used in making exhibit at the ‘Cotton States and International Exposition’ to be held in Atlanta, Ga.

Respectfully,

(Signed.)

H. D. Lane,
Commissioner of Agriculture.
Pr. L. A. Smith, C. C.’

"On the back of this requisition is the following endorsement: 'Under the general law of the Agricultural Bureau, honor Lane's check for twenty-five hundred dollars to be used in the exhibition of Agricultural products of Alabama at the Cotton States Exposition at Atlanta, Ga.

(Signed.) Wm. C. Oates,
Governor.'

"There is also this endorsement:

"Approved for twenty-five hundred dollars (2,500.00). Charge to the Agricultural fund.

(Signed.) Wm. C. Oates,
Governor.'

"8-15-95.

"The requisition with the endorsements given, has been presented to me with a demand for a warrant on the State treasury for the amount of such requisition. Being in doubt as to the authority of law to cover such requisition, I respectfully refer the question to you and ask you to please give me the authority of law for issuing such warrant. I have examined the general law creating and regulating the Department of Agriculture."

My reply is as follows:

The Department of Agriculture was created by the Act of Feby. 17th, 1885, now embodied in the Code in sections 129 to 150. Its executive head is the Commissioner of Agriculture, upon whom are devolved numerous duties, involving considerable expenditures of money, including the sale of fertilizer tags and the collection of licenses, the purchase of seed for distribution, the gathering of specimens of woods, minerals, etc., the making of investigations and the publication of statistics, etc. Among other important duties specifically enjoined upon him, is that: "He shall make illustrative expositions" of specimens which the statute requires him to collect, "whenever practicable, at international and State expositions."

Code 1886, Section 137, sub-division 13.

Upon well settled legal principles, the power being given to the Commissioner and the duty being imposed upon him to make such exhibits "whenever practicable," his decision as to such an exhibit, and the best mode of effecting it, are conclusive upon all other departments, for he is the tribunal to whom the law commits the determination of the questions. The amount to be expended for that purpose rests primarily with the Commissioner, subject only to disapproval by the Governor. If the Governor approve the Commissioner's "estimates" or disbursements for such a purpose, expenditures so made are legal, and constitute a valid charge against the "funds of the department."

The inevitable implication from all the provisions of the Code is that the Legislature intended to appropriate so much of the fund, which it re-

quires to be kept to the "credit of the department," as may be necessary to pay the expenses of the department. Certain expenses by name are payable out of the fund, as the salaries of Commissioner and clerks, chemists fees, travelling expenses, and the like. The Commissioner is required monthly to submit to the Governor an account of the expenses for the past month, and an estimate of expenses for the succeeding month, and with the approval of the Governor, may retain from moneys collected, five hundred dollars, exclusive of salaries, each month, to be used in meeting such expenses as the department may incur. These estimates are required to be filed in the Auditor's office as also all reports of expenditures and disbursements. The Commissioner is also required to report all his receipts and disbursements quarterly to the Governor. Though the statute is inartificially drawn, its manifest purpose is that the expenditures for any purpose authorized by the Act, made by the Commissioner with the approval of the Governor, shall be a charge upon that fund and payable out of it. The Legislature has not provided, save in the act creating the department, for the payment of any of the expenses which the Act requires the Commissioner to incur. Their payment has never been provided for or mentioned in the general or special appropriation bills. During the ten years elapsing since the creation of the Bureau, all of its expenses have invariably been paid on the approval of the Governor under the original Act creating the department, upon warrants drawn by the Auditor, payable out of the funds "to the credit of the department." This long and unbroken construction of the executive department, which has been acquiesced in by the legislative department, puts to rest any doubt which might otherwise arise as to whether this Act makes an appropriation in the constitutional sense for the payment of the expenses of the department.—United States v. Gilmore, 8 Wallace, p. 330; United States v. Alabama Great Southern R. R., 142 U. S., p. 615. Our constitutional provision is that,—“No money shall be paid out of the treasury, except upon appropriations made by law, and on warrant drawn by the proper officer in pursuance thereof.” The provisions of the statute creating the Agricultural department, relative to the payment of its expenses, amount in a constitutional sense to “*an appropriation made by law.*” This provision has never been construed in Alabama at least to require an appropriation of a specific sum, or that the appropriation be made in an appropriation bill proper, or that it continue from year to year,—before a payment out of the treasury can be lawfully made. The constitutional mandate of law is satisfied by a statute which fairly indicates a legislative intent that expenditures by certain persons for public purposes, which the law defines, when approved in the mode provided by

statute, shall be paid out of the moneys received from a particular fund, which the statute puts in the treasury for that purpose.

Nickols vs. Comptroller, 4 Stewart & Port. 154.

Reynolds vs. Taylor, 43 Ala. 420.

Riggs vs. Brewer, 64 Ala. 285.

Thomas vs. Owen, 4 Md. 189.

Roberts vs. The Auditor, 4 Neb. 216.

In reaching the conclusion that the act makes an appropriation for the purpose here desired I have not been unmindful of the fact that the last General Assembly defeated a bill making an appropriation for the Atlanta Exposition, but that can have no influence. A valid statute can never be repealed or amended by the action of the General Assembly, in defeating bills making other provisions on the same subject; and if existing laws make an appropriation for any object, they cannot be effected or in any wise restrained by the action of the General Assembly in defeating other bills, making other, or larger, or different provision or appropriations. If the Atlanta Exposition had been in contemplation at the time the Department of Agriculture was created, and on the passage of the bill creating it, an amendment making the same appropriation as the bill defeated at the last session, had then been rejected, neither the reasons which induced such action nor the Act itself would be a legitimate subject of inquiry, in arriving at the meaning of the present statute.

Lane vs. Kolb, 92 Ala. 655.

The legal tender cases, 12 Wallace, 457.

If, however, the action of the General Assembly at the last session were a legitimate subject of inquiry, it by no means follows that it can be taken as a legislative declaration that the Commissioner should incur no expense for an exhibit at Atlanta under the provisions of existing statutes. The General Assembly might well have been unwilling to appropriate the specific amount in the bill which was defeated, and yet be desirous of the expenditure of a smaller sum at that Exposition; or it may have believed that the matter could not be prudently settled then, since the amount of the appropriation hinged largely upon the future resources of the treasury which could not then be accurately ascertained, or it may have deemed it wisest to remit the whole matter to the discretion of the executive officers, under existing law, in view of the conditions existing at the time when the expenditure was to be made. Plainly, the action of the last General Assembly not only cannot repeal an existing law, but is not fairly indicative of any opposition to the Commissioner's decision that it is "*practicable*" now to make an exhibit at Atlanta. Whatever force its action could have is persuasive at most and purely for the determination of the Commissioner and Governor to whom the law commits the decision, whether the Commissioner shall spend the sum which the Governor approves for that purpose.

While the statute undoubtedly makes an appropriation for the use to which the Commissioner of Agriculture desires to put this money, the question still arises whether there is any authority of law for *advancing* the Commissioner any sum beyond the five hundred dollars which he is authorized to retain out of the funds in his hands with the approval of the Governor, on estimates furnished each month. I am of the opinion that section 149 of the Code as amended (Acts, 1888-89, p. 729) covers and provides for the only case where the funds of the department can be allowed to remain in the hands of the Commissioner in anticipation of expenditures by him and that taken in connection with the other sections of the chapter upon the Agricultural Department, it plainly contemplates that this amount of five hundred dollars is the only sum which can be *advanced* to the Commissioner on any estimate or requisition; but if the necessities of his department require the contraction of debts exceeding that amount, the Commissioner may do so, and the Auditor will be authorized and required on the presentation of such account duly approved by the Governor to pay the same, and the existing statutes furnish ample warrant for so doing. The papers here presented for your official action do not in my opinion meet the standard above laid down. If the Commissioner of Agriculture should present to you an itemized account of of subsisting indebtedness, bearing the approval of the Governor together with his mandate, directing you to draw a warrant for the payment of the same out of the funds to the credit of the Agricultural department, you should in my opinion yield prompt obedience. Until that is done your present position seems to me not improper.

I have the honor to remain,

Yours truly,

WM. C. FITTS,
Attorney-General.

STATE OF ALABAMA,

OFFICE OF ATTORNEY GENERAL,

MONTGOMERY, ALA., Aug. 24, 1895.

SUBJECT: CONSTRUCTION OF SECTION 42 OF THE CONVICT LAW OF 1894-95
(ACTS OF 1894-95, PAGE 858).

HON. JOHN PURIFOY,

State Auditor—Capitol:

DEAR SIR: I have your letter of yesterday, accompanying the papers in the matter of the removal, or bill for the removal of the prisoner Elijah Jones.

The case of Elijah Jones was reversed and remanded at the last term of

the supreme court, and his return to Limestone County to abide further proceedings is proper and seems to have been in contemplation of the last general assembly. (New convict law, Section 42, Acts 94-95, page 858).

In my opinion the section cited just above affords sufficient authority for the Auditor to draw a warrant in this matter. Second, the warrant should be directed against the funds to the credit of the Convict Bureau. Third, the sheriff of Limestone County is, in this instance, entitled to receive the compensation, but he is only "entitled to the actual expenses incurred in such removal," there being no authority of law for paying him a per diem in addition to his actual expenses.

I have the honor to remain yours very truly,

WILLIAM C. FITTS,
Attorney General.

STATE OF ALABAMA,

OFFICE OF ATTORNEY GENERAL,

MONTGOMERY, ALA., Oct. 15th, 1895.

To the Governor and Secretary of State:

DEAR SIRs—I am informed by the State Printer that the vast amount of Fertilizer tags proposed to be destroyed to-day are of the value of five hundred dollars and upwards. I am further informed by the same person that the metallic fastenings alone connected with said tags are worth two hundred dollars and that it will cost the State that much to replace them.

The Printer says that at a very small cost these same tags could be used for another season by simply printing the new date across their face in red ink. In view of these facts I do not believe that the Act of February 21st, 1893, contemplated such unusual destruction of State property. It merely contemplated that a few useless remnants might be left over for destruction at the end of each season.

The Legislature never intended to order the destruction of eight hundred thousand untouched tags. Holding these views I shall decline to be present at the destruction of this property or to take part therein.

With great respect,

Yours very truly,

WILLIAM C. FITTS,
Attorney General.

STATE OF ALABAMA,

OFFICE OF ATTORNEY GENERAL,

MONTGOMERY, ALA., March 14, 1896.

SUBJECT: UNDER WHAT CIRCUMSTANCES MILITIA MAY BE ORDERED INTO SERVICE BY CIRCUIT JUDGE. PAYMENT OF COMPENSATION FOR SUCH MILITARY SERVICE.

To His Excellency,

WILLIAM C. OATES,

Governor :

DEAR SIR: Answering your note of yesterday which refers to this department, the matter of compensation for militia ordered into active service in the City of Montgomery on the evening of February 15th, 1896, permit me to say,—I take it that the questions which it is proper to answer, are as follows: 1st. Is it legal for a Circuit Judge to order the State militia or a portion thereof, into active service without first communicating upon the subject with either the Governor or Adjutant General of the State? 2d. Such order having been made and issued by a Circuit Judge and by him addressed to an officer with the rank of Major, is it competent when the officer with the rank of Major cannot be found, for an inferior officer, for instance a lieutenant, to take up the order under the stress of pressing necessity, as if it had been addressed to him in the first instance? 3d. A portion of the State militia having been ordered into active service by a Circuit Judge and having been carried into that service by a lieutenant of the line, should they upon the report of same through the Adjutant General's office, be allowed compensation under Section 176 of the Code of 1886?

Taking up these questions in their order, I must say that under certain circumstances a Circuit Judge has the power to order into active service, that portion of the State militia incident to the county where immediate lawlessness is threatened. And the Circuit Judge may exercise this power over the militia only when he finds himself and the process of the law amid such "circumstances that timely application cannot be made to the Governor, and action had thereon by him" (the Governor).

There can be no doubt but that on the evening of February 15th, Judge Tyson found himself and the process of the law surrounded by the very strongest array of circumstances intended to be in a measure provided for by Section 4704 of the Code. The Governor of the State, in obedience to a summons which takes rank even above any public duty, was unavoidably absent from the seat of government. After night-fall and at a time when all officers of the executive branch of the government were dispersed to their several homes, it became more than probable that trouble

might come about in connection with the landing of a prisoner charged with a revolting murder, from a night train.

Under these circumstances any attempt to communicate with the Governor would have been worse than futile. As subsequent events demonstrated the only possible hope (and that was but slight) to outwit an outraged populace was to act promptly and to communicate with but few persons. Under these circumstances the Judge of the Circuit performed a duty directly incident to his office when he made the hasty order calling the local militia into service.

Furthermore he followed the law strictly when he commanded them to report to him. The same law which gives the Judge the right to call out the force seems to proceed upon the idea that he knew better than their ranking officers what he called them for, and makes it the duty even of a ranking military officer to report to the Judge for his instructions.

To the second proposition I will say,—while it was never intended nor is it desirable that an inferior officer shall assume duties belonging to a higher official; still there are times when in the absence of the superior it is the imperative duty of the inferior to go forward.

In this case Major Clisby being ill, and the runner to whom the order had been given having failed to find Major Soutt, when he came across Lieutenant Goetter and delivered the order to him, it became the duty of the lieutenant from the very nature of the order to take it up and obey it as best he could. With an order of a different nature which would have permitted delay, it might have been different.

To the third proposition will say that to my mind it is clear that troops ordered into service as these papers disclose, should be paid under Section 176 of the Code. Had this score of young Alabamians succeeded in thwarting the mob and preventing a stain being put upon the administration of the law within the very sight of the Capitol, the Commonwealth could well have afforded to pay to each one of them the amount of this bill, and furthermore to have awarded to each a badge of honor. They failed, but that is not the test of right; they reported as their orders directed, and only by reason of an unfortunate combination of circumstances was their mission rendered futile.

I must not be considered as passing on the correctness of the amount of the claim, I am not familiar with military regulations. They should be paid under the United States military regulations referred to in Section 176 of our Code.

Yours very truly,

WILLIAM C. FITTS,
Attorney General.

THE STATE OF ALABAMA,
EXECUTIVE DEPARTMENT,
OFFICE OF ATTORNEY GENERAL,
MONTGOMERY, ALA., Dec. 10, 1895.

SUBJECT: THE WORD "LANDS," WHEN USED IN STATUTES RELATING TO
TAXATION, MUST BE HELD TO INCLUDE OPERATED RAILROADS.

HON. JOHN PURIFOY, *State Auditor, Capitol :*

Dear Sir :—I have your request for the instruction of this department in the matter of the application of Howard Lamar, Esq., for a deed (under Sec. 7 of the Act of Feb. 9th, 1895,) to that portion of the Birmingham, Sheffield and Tennessee River Railway lying in the County of Winston.

From the papers before me it appears that the Birmingham, Sheffield and Tennessee River Railway Company failed to pay the taxes of 1890, upon that portion of its roadbed and side tracks situated in Winston County. On May 4th, 1891, the said property was sold for the payment of the unpaid taxes and at the sale the State became the purchaser. On February 9th, 1895, the General Assembly enacted a law, the purpose of which, as disclosed by its title, is: "To dispose of lands which have been or which may hereafter be sold for taxes and bid in for the State, and which have not been redeemed or purchased from the State." Under the terms of the law it is made the duty of the Auditor to certify to each Judge of Probate a list of the lands situated in his County which have been bid in by the State and which have not been purchased or redeemed. The duty then devolves upon the Probate Judges to advertise the lands in a particular way and to conduct the sales commencing in all the Counties "on the first Monday in November, 1895, and continuing from day to day until all the lands are disposed of."

Immediately after the enactment of the law the Auditor performed his part of the program by sending out the lists of lands bought in by the State; and throughout the State the sales were conducted as prescribed by the act.

In making up the list for the County of Winston there was included therein the Railroad in question, and acting under the list as his bill of instructions the Probate Judge conducted the sale of so much of said Railroad as is situated in the County of Winston substantially as the law directs. At this sale Howard Lamar, Esq., bid for and became the purchaser of the said Railroad property, the description of which is as follows, viz.: "Main track 23 20-100 miles, side track 40-100 of a mile; being that portion of the line of Railroad of the Birmingham, Sheffield and Tennessee River Railway Company lying in Winston County, Alabama, as assessed for taxes in said Winston County to the said Railway

Company for the year 1890." Howard Lamar, the purchaser, having armed himself with the proper certificate of purchase, duly signed and sealed by the Probate Judge of Winston County, presents that certificate and demands the Auditor's deed provided for in Section 7 of the act under consideration. You decline to issue the deed without the sanction of this department, saying, very properly, that as the law both in its caption and body only mentions and provides for the sale of "lands" which have been bought in by the State, that you are in doubt as to whether the one general word and term "lands" can be held to include the builded and operated roadway of a Railroad.

There is no way of going around the question which you put. In the enactment before us does the term "lands" include the roadbed of a railroad? If it does, then the purchaser at the sale of November 4th is entitled to have at your hands the deed provided for in the act; if it does not, then he bought nothing at the sale conducted under this act, and cannot complain at your refusal to execute the deed.

The statute uses only the word "lands." Had it particularized to any extent by saying "country lands," or "mineral lands," or "cultivated lands;" or had any like term of limitation been used there would be no doubt of the result when the attempt is made to apply it to the superstructure of a Railroad. But I am inclined to the opinion that the term "lands," as here used, has a very broad significance.

It may be admitted as a general rule that the term "lands" will not include an easement, or the right to be let into the occupation of a servitude. A good reason for this is that the party asserting the claim has, generally, only a right in common with the public, or with some other person or persons.

The right is a limited one and ordinarily is not disturbed by another's similar occupation. It is but a privilege to go upon certain lands for a specific or limited purpose and has not the element of exclusiveness or ownership in it. An ordinary right-of-way is an illustration of this idea.

But lands claimed, condemned and held as the roadbed of an operated railroad must stand in a different category from all ordinary easements, over them is acquired something more than the mere right of use in common with the public. "The right and use are exclusive and no one else has any right-of-way thereon."

The consideration is limited to the inquiry as to whether or not railroads are lands for the purpose of taxation and within the meaning of the statutes relating to the collection of taxes. Whatever doubts may exist as to the nature of such property in respect to other and direct attempts of individuals to acquire ownership or possession of them, I am satisfied that for the purpose of taxation at least railroads are included within the one general term "lands."

The Court of Appeals of the State of New York has decided almost the identical question here presented.

In a contention almost the parallel of the one pending before you and under a statute almost identical with ours it was held that, "the tunnels, tracks, substructures, superstructures, stations, viaducts and masonry of the New York and Harlem River R. R. Co., situate on and under Fourth avenue, in the City of New York, are "lands" within the meaning of that word as used in the statute in reference to property liable to taxation."

Further—"As regards taxation it is immaterial whether a railroad is laid upon the surface, placed on pillars, or carried through a covered way or tunnel, the structures adopted to sustain it or facilitate and protect its use, are, within the meaning of the law, "lands." The People vs. Commissioners of Taxes of New York, 101 N. Y. p. 322.

For curious and extended discussions in the same direction, see Randall vs. Elwell, 52 N. Y. 521, and Hoyle vs. P. & M. R. R. Co., 54 N. Y. 314.

With the lights before me I cannot say that the law is so clearly against the bidder at the sale as that you may safely decline to issue him a deed upon the presentation of the proper certificate of purchase from the Probate Judge of Winston County.

It is not necessary, nor would it be proper, for us to venture into the field of speculation as to what will be the result of the controversy which is likely to arise between the purchaser and the Railroad Company. What he can accomplish under the Auditor's deed is a matter for the exercise of his energy and ingenuity, and with that result the State is not concerned. I am of the opinion that you may safely issue him a deed with the limited recitals therein which have already been passed upon by this department in making up the form suitable to be used in connection with the sales of land under this statute.

Yours very truly,

WILLIAM C. FITTS,
Attorney-General.

STATE OF ALABAMA,

OFFICE OF ATTORNEY-GENERAL,

MONTGOMERY, ALA., Sept. 7, 1895.

SUBJECT: STATUS OF THE SELMA AND GULF RAILROAD.

To His Excellency,

WILLIAM C. OATES,

Governor of Alabama:

Dear Sir:—Your favor of July 3rd, 1895, came duly to hand and since

the time of its arrival I have devoted much time and attention to a study of the matter therein referred to.

Your direction is that the Attorney-General "institute proceedings against the Selma and Gulf Railroad Company, incorporated June 20th, 1858, and the Pensacola Division of the Louisville and Nashville Railroad, which operates the completed portions of the said Selma and Gulf Railroad Co., and has an interest therein, requiring said companies to show cause why the rights, privileges and franchises granted in the original act of incorporation of said Railroad shall not be forfeited for failure to comply with the terms of said charter."

The investigation which was, of course, necessary before filing any papers in pursuance of this direction has brought me face to face with certain facts and conditions touching this matter which I deem it my duty to report back to you together with certain doubts which are thereby suggested to my mind. If after a consideration of the features, which will be hereafter discussed, you shall still desire the forfeiture proceeding to be instituted, and shall be of the opinion that such a duty properly falls upon me, I will proceed with the litigation vigorously and at once.

It is found that the "Selma and Gulf Railroad Company" was created by an act of the General Assembly of the State of Alabama, approved January 30th, 1858, (Acts of 1857-8, pages 171-179,) and this may be hereafter for the sake of brevity spoken as the "original act of 1858."

Section 15 of this original act provides that the construction of the road shall be commenced within three years from the date of the approval of the act, and that a failure to comply with such requirement shall operate a forfeiture of the charter.

I have been unable to ascertain, with any degree of certainty, whether this requirement was actually complied with or not, but I am inclined to think that it must have been. On the 20th day of April, 1870, the Selma and Gulf Railroad Company executed at great length its deed of trust to John W. Lapsley and Thomas K. Ferguson, as trustees to secure those who might become the holders of two certain issues of bonds which it was proposed to issue under said trust deed, the first issue to be known as the "first mortgage bonds of the Selma and Gulf Railroad Company" for the sum of \$16,000 per mile, and this issue to bear the endorsement of the State of Alabama, in accordance with and upon the conditions of an act of the General Assembly of the State of Alabama, entitled "an Act to furnish the aid and credit of the State of Alabama for the purpose of expediting the construction of Railroads within the State," approved February 21st, 1870. The second set of bonds was to be designated as the "Second mortgage bonds of the Selma and Gulf Railroad Company" and for the sum of \$14,000 per mile, and without any endorsement on the part of the State. (The State aid act limited all endorsements to \$16,000 per mile of constructed road).

On April 20th, 1870, John W. Lapsley and Thomas K. Ferguson endorsed upon the said deed of trust their written acceptance of the duties imposed upon them by that instrument.

From what follows, I can safely presume that the "First Mortgage Bonds" specified for in said deed of trust were straightway issued, endorsed by the State of Alabama and sold, certainly fully up to the amount warranted by the mileage of builded Railroad, and I am inclined to think to a considerable amount beyond that so warranted by the said Act for the State Aid.

I am not accurately informed as to what happends in this matter from 1870-'73, except that the Selma and Gulf Railroad Company failed to protect the interest upon its "first mortgage bonds," and that Thomas K. Ferguson, who was co-trustee with Mr. Lapsley, left the United States and became a resident of some foreign country.

On July 29th, 1873, John W. Lapsley, as the remaining trustee, exhibited his original bill in the Chancery Court of Dallas County, setting up the failure of the Selma and Gulf Railroad Company the maker, and of the State of Alabama the endorser, to pay the interest upon the said issue of "first mortgage bonds" to the holders thereof, whose trustee he then was, praying a sale of the road its franchises, charter and all property of every kind to satisfy said trust deed, and making the said Railroad and the State of Alabama parties defendant to his bill (that being prior to the present Constitution which exempts the State from suit).

I am not aware that the Selma and Gulf Railroad Company ever filed an answer to the allegations of this bill; but the State of Alabama did file its sepearte answer thereto on October 6th, 1873. This answer is signed "David P. Lewis, Governor for the State of Alabama by his Solicitors, Alexander and John White and L. E. P. Arsons." The answer admits most of the allegations of the bill, especially the essential ones as to the non-payment of interest upon the first mortgage bonds, but alleges, among other things, an over endorsement on the part of the State for this road, and further alleging that the state is without any accurate information in fact as to how many of said bonds were endorsed by the State and praying for proof and discovery in that regard.

The matter remained in litigation without any material change of status until 1877.

On February 8th, 1877, the Chancellor rendered a decree holding that the bond holders were entitled to relief under the bill as filed by Lapsley, trustee. This decree is at great length and many matters are thereby referred to the Register for ascertainment. By this decree a sale of the Selma and Gulf Railroad, together with all of its property of every kind, "together with all and singular the alienable franchises, immoluments, income and advantages, tenements hereditaments and appertenances belonging or in anywise appertaining to said company." After certain

slight modifications had been made in the decree by the Chancellor, the said property was exposed to sale to the highest bidder in front of the Court House of Dallas County on the 22nd day of September, 1879, and at said sale and under the terms of the decree one Daniel F. Sullivan became the purchaser of said property at the price of one hundred and twenty thousand and one hundred (120,100.00) dollars.

The Register reported the sale, together with the fact of Sullivan's compliance with the terms of the decree, to the Chancery Court, and on October 9th, 1879, a final decree confirming the sale to said Sullivan was made and enrolled.

The deed of the Register in Chancery to Daniel F. Sullivan is under date of January 9th, 1880, and contains among others the following recital in the granting part: "Together with all and singular the franchises, emoluments, incomes and advantages, tenements, hereditaments and appertanances belonging to or in anywise appertaining to said Selma and Gulf Railroad Company."

Thus D. F. Sullivan bought outright the Selma and Gulf Railroad, together with every particle of property of every kind and description which had heretofore belonged to the corporation bearing that name; we shall next see what he did with it. When a solitary individual gets hold of a whole railroad for his very own, it is always interesting to observe what follows next.

The next move attending this piece of railroad property was as follows: On the 18th day of March, 1880, it appears that the said D. F. Sullivan, together with F. de Funiak, B. Dunham, W. D. Chipley, G. A. Stanley, Thos. G. Jones and W. P. Armstrong, by his attorney, met at a station called Whiting, on the Mobile and Montgomery Railway, and then and there organized the "Pensacola and Selma Railroad Company." The Articles of incorporation as filed for this new Company, "Pensacola and Selma," may be found in the office of the Secretary of State and seen to have been very carefully prepared. This organization was had under Sections 1845, 1846 and 1847 of the Code of 1876, the object of which statutes were to allow purchasers of railroad properties in this State to re-organize them with new names and under new charters. All of the statutory provisions were in this instance strictly followed, and the re-chartering as provided for in said sections seems to have been entirely regular. The franchises and charter rights of the old Selma and Gulf Railroad as granted in the original Act of 1858, and sold to Sullivan by the Register of Dallas County, seems to have been the basis for this reorganization and said rights and franchises are so recited to have been the basis of the new Pensacola and Selma, being valued at \$25,000.00 which constituted the entire capital stock of the new organization.

After the Pensacola and Selma Railroad Company had in this manner completed its organization, having filed its papers on March 20th, 1880,

in the office of the Secretary of State of Alabama, it proceeded on the 22d day of October 1880, to acquire by deed from Daniel F. Sullivan and wife all of the real and personal property of every kind and description which had formerly belonged to the Selma and Gulf Railroad, and which said Sullivan acquired at the Chancery sale above mentioned. The consideration above recited in this deed is \$125,000.00 as moving from the Pensacola and Selma Railroad to D. F. Sullivan and wife, but makes reference to a certain contract by which the Louisville and Nashville Railroad was to give certain transportation privileges to said D. F. Sullivan for timber, &c., and to an obligation that the road should be immediately extended to a point 30 miles north of said Whiting Station.

On the 23d day of November, 1880, (just one month subsequent to the conveyance from Sullivan and wife to the Pensacola and Selma Railroad) the Pensacola and Selma Railroad by deed conveyed all of its property, real and personal, railroad, road bed, rolling stock and every kind and description of property to the Louisville and Nashville Railroad Company, a corporation organized and existing under the laws of the State of Kentucky. By this conveyance every thing of which the Pensacola and Selma Railroad was possessed, excepting only the right to be and exist as a corporation, was divested out of the said Pensacola and Selma Railroad and vested in the Louisville and Nashville Railroad, a foreign corporation. The right to retain a separate corporate existence seems to have been reserved presumably for the purpose of keeping up the distinct name and corporate entity of this branch line.

This last deed of the Pensacola and Selma Railroad company to the Louisville and Nashville Railroad Company recites that the \$125,000.00 of agreed purchase money from the Pensacola and Selma to Dan'l F. Sullivan had in fact been paid by the Louisville and Nashville Railroad and hence the conveyance to the Louisville and Nashville Railroad at this time.

This completes the history of the property, having traced it step by step from its original incorporation by legislative enactment, through the new corporation organized under the statute down to the absolute purchase by the Louisville and Nashville Railroad Company.

It may be as well observed here as elsewhere that the foreign corporation could, in my opinion, legally purchase the railway of another Railroad Company existing under the laws of this State, or owning or operating a railroad within the State, this inquiry to my mind is not the stubborn one and may be considered as at once disposed of.

The hardest question is as to whether or not the old original charter of the Selma and Gulf Railroad Company, with all of its rights, privileges, franchises, duties and obligations, passed into the possession of Sullivan and each subsequent purchaser on conveyance of the property, or was the original charter of 1858 abandoned and left as an empty hull when

Sullivan, Jones and associates turned away from it and organized the Pensacola and Selma Railroad Company under statutory provision by filing the requisite papers to that end in the office of the Secretary of State of this State.

The contention of the Louisville and Nashville Railroad will doubtless be that it owns the Pensacola and Selma Railroad absolutely and unconditionally, that it does not operate it under nor claim any of the privileges granted by the original Act of 1858 incorporating the Selma and Gulf Railroad, but that it acquired it by absolute purchase from D. F. Sullivan, the owner of it, and that its reorganization was accomplished and a new charter obtained under the statutes of Alabama through the office of the Secretary of State.

As proof of this position it will doubtless be suggested that section 17 of the original Act of incorporation of the Selma and Gulf Railroad absolutely exempted the stock of that corporation from all taxation until "a dividend of profits" should be declared thereon; which exemption the Louisville and Nashville Railroad will assert has never been asked or claimed, despite the fact that the figures on file in the proper department show that the road has never earned operating expenses, and if living under the original charter of 1858 would be entitled to the absolute exemption. If the proceedings should be instituted and the original charter of 1858 declared forfeited would that operate also a forfeiture of the charter of the Pensacola and Selma Railroad filed by Sullivan, Jones and associates with the Secretary of State in the year 1880? And if this should be answered in the affirmative, would we not still be face to face with the fact that the Louisville and Nashville Railroad had purchased these two arms of builded railroad, having paid therefor \$125,000.00 and taken a conveyance absolute therefor, and such purchase having been made in a manner not contrary to law how can they be restrained from operating them in an uncompleted condition if they see fit to continue to do so?

These and other doubtful questions present themselves to me as I prosecute investigation touching this matter, and I put them before you for your consideration, in order that I may receive further instructions at your hands.

One other thought and I am done: I believe that you have fallen into an error in ordering the Attorney-General to institute proceedings looking to this forfeiture.

While I have been of such an opinion all the while I hesitated to say so, fearing that it might look like an attempt to avoid labor, which I hope you will never find to be the case, and only the crowded conditions of affairs in this office growing out of the Randolph cases, the impeachment case, and many other matters in addition to the heavy term of the Supreme Court, which is drawing on, prompts me to make the point at all.

The constitution (of 1875) provides in Article 6, section 28, that the Attorney-General "shall perform such duties as may be required of him by law."

Section 127 of the Code (of 1886) purports to set out and enumerate the duties which are required of him by law.

Subdivision 3, which treats of the litigation of which he must have charge, is as follows:

"He must attend, on the part of the State, to all criminal cases pending in the Supreme Court, and to all civil suits in which the State is a party in the same court. He shall also attend to all causes other than criminal that may be pending in the courts of *Montgomery county*, in which the State may be in any manner concerned; and when required to do so by the Governor, in writing, shall appear in the courts of other States, or of the United States, in any cause in which the State may be interested in the result."

Sections 3167, 3168 and 3169 of the Code of 1886, upon the subject of how to vacate charters of corporations, are as follows:

"§ 3167 (3419). Actions to vacate charters of corporations; by whom instituted, and grounds for.—An action may be brought in the name of the State, on the information of any person, for the purpose of vacating the charter, or annulling the existence of any corporation, other than municipal, whenever such corporation,—

1. Offends against any of the acts, creating, altering or renewing such corporation.

2. Violates the provisions of any law, by which such corporation forfeits its charter, by abuse of its powers.

3. Has forfeited its privileges or franchises by failure to exercise its powers.

4. Has done or omitted any act which amounts to a surrender of its corporate rights, privileges and franchises.

5. Exercises a franchise or privilege not conferred on it by law.

§ 3168 (3420). When solicitor directed to commence action; any person may sue on securing costs.—The judge of the circuit in which such corporation is located, whenever he has reason to believe that any of these acts or omissions can be proved, and it is necessary for the public good, must direct the solicitor of the circuit or county to bring such action; or such action may be brought on the information of any person giving security for the costs of the action, to be approved by the clerk of the court in which such action is brought.

§ 3169 (3420). In what county actions to be brought.—Such actions must be brought in the Circuit Court of the county in which the corporation has its principal office, or, if it has no principal office, of any county in which it does business."

It will thus appear that this will necessarily be a civil action to be in-

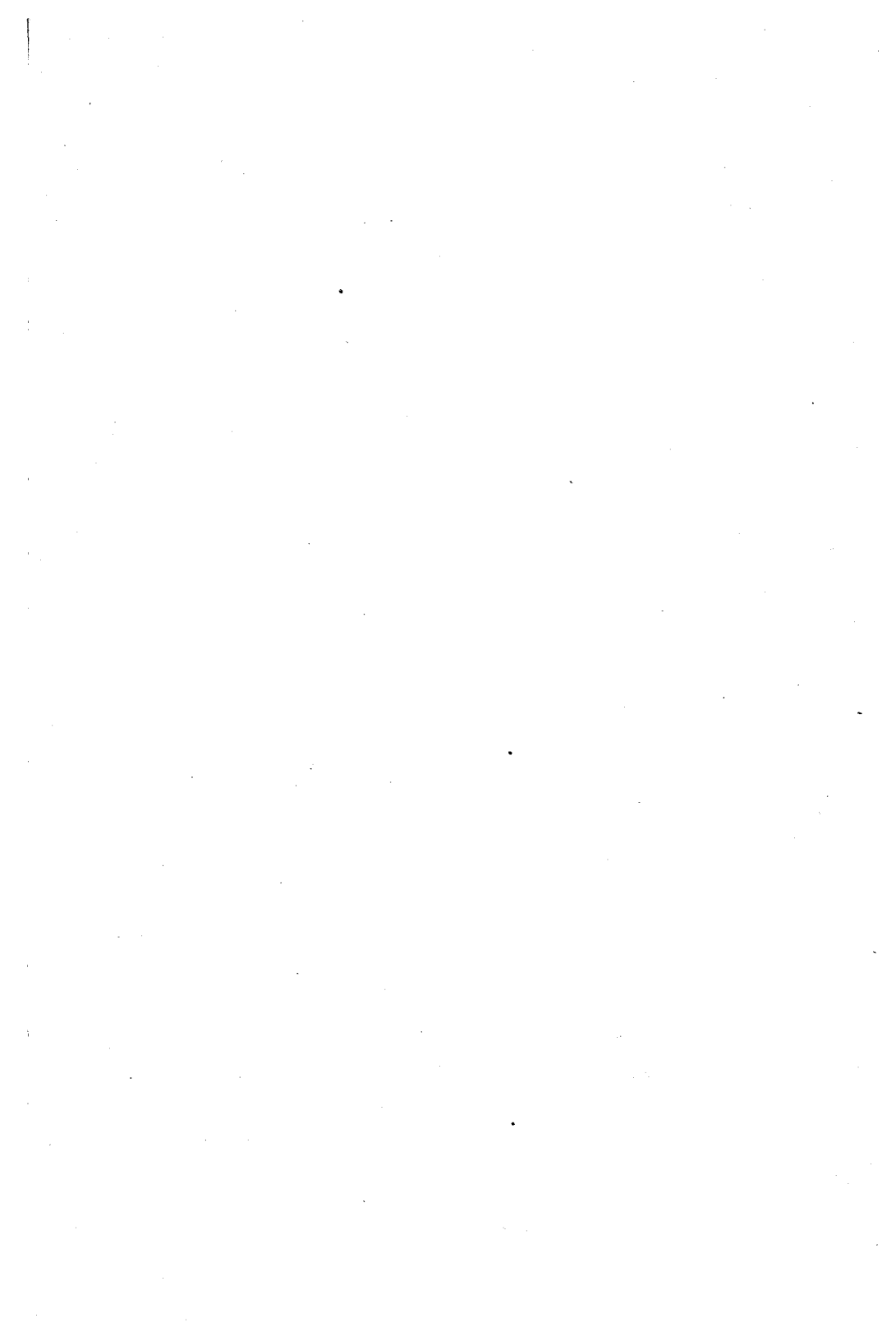
stituted not in the Supreme Court, and in a County other than the County of Montgomery, and the prosecution of it seems to be rather the duty of Circuit Solicitor than of Attorney-General.

Having thus reported fully to you I await in this matter your further instructions, which will have careful attention,—and have the honor to remain,

Yours very truly,

WILLIAM C. FITTS,
Attorney-General.

N. B.—I have copies of most of the papers which have been alluded to in connection with the Selma and Gulf Railroad and will be pleased to submit them to you or to deliver them to the proper Circuit Solicitor as occasion may require.



INDEX.

PAGES

Alabama State Bonds exempt from taxation, opinion on,.....	110 to 112
Andrews, Treasurer, vs Purifoy, Auditor,.....	9
Authority of Commissioner of Agriculture to make exhibits at expositions, opinion on.....	112
Bingham Bond Case,.....	14 ^a and 15
Cases growing out of the defalcation of F. C. Randolph. Judge etc.,.....	12 and 13
Collections, itemized Statement of,.....	102
Conclusion,.....	21 and 22
Construction of Act Feb., 9th, 1895, to dispose of lands bought by State at tax sales, 112 to 114	
Construction of Section 42 of the Convict Law of 1894-95.....	118 and 119
Construction of the word "lands" when used in statutes relating to taxation,.....	122 to 124
Criminal business in Supreme Court,.....	5
Fertilizer tags, destruction of, opinion on,.....	119
General outline,.....	3 and 4
General statement of criminal cases in entire State,.....	23 to 29
Godfrey, Solicitor, vs Purifoy, Auditor,.....	9 and 10
Hoadley et als, vs Purifoy, Auditor,.....	10 and 11
Impeachment proceedings,.....	6 to 8
List of of Circuit and City Court Solicitors,.....	31
"Lloyds", opinion on,.....	109 and 110
Matthews, Clerk, vs Dawson, Superintendent,.....	10
Opinions, number of and to whom given,.....	5
Power of Governor and Commissioner of Agriculture to order money out of the State Treasury, opinion on,.....	114 to 118
Proceedings for the forfeiture of the Charter of the Selma and Gulf Railroad,.....	14
Refunding taxes, opinion on,.....	104
Removal of prisoners, opinion on,.....	105 to 107
Report of the Solicitor for the First Circuit,.....	33 to 35
Report of the Solicitor for the Second Circuit,.....	37 and 38
Report of the Solicitor for the Third Circuit,.....	39 to 41
Report of the Solicitor for the Fourth Circuit,.....	43 and 44
Report of the Solicitor for the Fifth Circuit,.....	45 to 47
Report of the Solicitor for the Sixth Circuit,.....	49 to 51
Report of the Solicitor for the Seventh Circuit,.....	53 and 54
Report of the Solicitor for the Eighth Circuit,.....	55 to 57
Report of the Solicitor for the Ninth Circuit,.....	59 and 60
Report of the Solicitor for the Tenth Circuit,.....	61 to 63
Report of the Solicitor for the Eleventh Circuit,.....	65 and 66
Report of the Solicitor for the Twelfth Circuit,.....	67 and 68
Report of the Solicitor for the Thirteenth Circuit,.....	69 and 70
Report of the Solicitor for the City Court of Anniston,.....	83 and 84
Report of the Solicitor for the City Court of Bridgeport,.....	95 and 96
Report of the Solicitor for the City Court of Gadsden,.....	85 and 86
Report of the Solicitor for the City Court of Mobile,.....	81 and 82
Report of the Solicitor for the City Court of Montgomery,.....	75 to 77
Report of the Solicitor for the City Court of Selma,.....	97 and 98
Report of the Solicitor for the Circuit Court of Etowah County,.....	99 and 100

Report of the Solicitor for the Circuit Court of Jackson County,.....	93 and 94
Report of the Solicitor for the Circuit Court of Madison County,.....	91 and 92
Report of the Solicitor for the County Court of Montgomery County,.....	79 and 80
Report of the Solicitor for the Criminal Court of Jefferson County,.....	71 to 73
Report of the Solicitor for the Criminal Court of Pike County,.....	89 and 90
Solicitors, Compensation of,.....	107 and 108
Status of the Selma and Gulf Railroad, opinion on,	124 to 131
Suggestions,.....	18 to 20
The Memphis and Charleston Railroad vs Wm. C. Oates, as Governor, and Wm. C. Fitts, as Attorney General.....	15 to 17
The State of Alabama vs the Postal Telegraph Cable Company,.....	8 and 9
The State vs Josephus Jowers, et als,.....	17 and 18
When and how militia may be ordered into service by Circuit Judge,.....	120 and 121

